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TRANSCRIPT OF RECORD

Supreme Court of the United States

OCTOBER TERM, 1941

No. 510

C. H. COCHRAN, PETITIONER,

vs.

THE STATE OF KANSAS AND MILTON F. AMRINE, WARDEN, KANSAS STATE PENITENTIARY

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF THE STATE OF KANSAS

PETITION FOR CERTIORARI FILED AUGUST 13, 1941.

CERTIORARI GRANTED OCTOBER 13, 1941.

SUPREME COURT OF THE UNITED STATES

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[fol. 1]

IN DISTRICT COURT OF LEAVENWORTH COUNTY, FIRST DISTRICT OF THE STATE OF KANSAS

No. 29059F

In the Matter of C. H. Cochran, Petitioner, for the Writ of Habeas Corpus

NOTICE OF APPEAL

To the State of Kansas, Plaintiff Herein, Attorney for Plaintiff, M. F. Amrine, Warden Kansas State Penitentiary, and the Clerk of the District Court of Leavenworth County, Kansas:

You, and each of you, are hereby notified that the petitioner, C. H. Cochran, appeals to the Supreme Court of the State of Kansas from the judgment of the Leavenworth County District Court of Kansas, rendered against him on the 11th day of December, 1940, in the above entitled cause, that the cause above was dismissed without a lawful hearing, setting forth that facts were not sufficient to grant the Writ.

C. H. Cochran, Attorney in own defense.

December 20, 1940.

Service of the above notice is hereby accepted this 31st day of December A. D. 1940.

Walter Biddle, Attorney for Respondent. ——, Clerk of the District Court, Leavenworth County.

[fol. 2] IN DISTRICT COURT OF LEAVENWORTH COUNTY, KANSAS

No. 29059-F

In the Matter of C. H. Cochran for a Writ of Habeas Corpus

ORDER DENYING APPLICATION FOR WRIT OF HABEAS CORPUS

After examination of the petition in the above entitled action, I find that the petition does not state facts sufficient

to warrant the issuing of a writ of habeas corpus, and the request for such a writ is therefore denied.

J. H. Wendorff, Judge.

December 11, 1940.

Endorsements: Notice of Appeal and Journal Entry of Judgment. Filed June 2, 1941. E. E. Clark, Clerk Supreme Court.

[fol. 3] Clerk's Certificate to foregoing transcript omitted in printing.

[fols. 4-5] [File endorsement omitted]

IN SUPREME COURT OF KANSAS

35156

C. H. COCHRAN, Petitioner,

vs.

THE STATE OF KANSAS, and MILTON F. AMRINE, Warden Kansas State Penitentiary, Respondent

APPLICATION FOR THE WRIT OF HABEAS CORPUS—Filed January 8, 1941

C. H. Cochran, Per Se:

[fol. 6] Comes now Charles H. Cocharan, a citizen of the United States of America, who respectfully represents and shows to the court that he is now unlawfully immured in the Kansas State Penitentiary at Lansing, Kansas where he is being unlawfully restrained, held to involuntary servitude and deprived of his liberty by the State of Kansas and Milton F. Amrine, Warden of the Kansas State penitentiary, duly Authorized agent of for the State of Kansas and Respondent hereto, and that the cause or pretense of cause for illegally immuring and unlawfully restraining, holding to involuntary servitude and depriving your petitioner of his liberty is a mit·imus or commitment issuede against your petitioner and authorizing his imprisonment for the term of "Life" by the twenty-fifth (25) Judicial District Court

of Kansas, and that the aforesaid mittimus or commitment is now and has ever been wholly, Null, Void and without force for the following reasons: Viz:

I

The record shows that any jurisdiction the twenty-figth Judicial Court of Kansas m-y *a*of had to issue any mittimus or commitment against your petitioner was procured thru the reckless contrivance in the pretense of a trial which in and by itself, deprived your petitioner of every right secured to him by the State and Federal Constitution and precluded from the action itself both the fundamental conceptions of justice and its requirements of "Due process of Law."

II

The record shows that the trial court went beyond the bounds of judicial discretion by over-ruling your petitioner's motion in the court or without any hearing at all.

[fol. 7]

III

The record shows that the duly authorized officers and prison officials exercised unlawful authority by surpressing your petitioners appeal documents in a manner violative of their lawful duty and contrary to the statutess of the state of Kansas, to thwart, obstruct and deprive your petitioner of his lawful rights of appeal.

IV

The record shows that your petitioner was, after incarceration, *was* arbitrarily denied by prison rules and the arbitrary acts of the officials of his lawful right of his appeal and was denied the right to secure a transcript from the trial court. Arbitrarily denied hearing of his appeal in the Supreme Court of the State of Kansas and denied him the right to file his written case in the Supreme Court of the State of Kansas by E. M. Stubblefield, Deputy Warden, Lacey M. Simpson, Warden who the records shows refused your petitioner to mail abstract and brief to the Supreme Court, and arbitrarily suspended Habeas Corpus.

V

The record will show that your petitioner has ever been consistantly denied and deprived of the right to "Due

process of Law," by the Courts and the duly authorized officers and agents of the State of Kansas.

VI

The records will show by the records itself, that all proceedings previ usly undertaken by your petitioner to bring his casue within the scope of the requirements of "Due process of Law" for judgment thereon according to the prevailing law and the fundamental conseptions of justice have been arbitrarily dismissed by the court of the State of Kansas without recourse to the record which, so far as your pe-itioner is informed, has never transcribed, upon the unfounded contention, guess or belief of the respondent that your petitioner was or may have been convicted by an orderly trial within the concept of the fundamental requirements of "Due process of Law."

VII

The records will show that the courts of the state of Kansas and the duly authorized officers and agents of the state of Kansas are exercising unlawful authority over the person of your petitioner for the reason that any and all punitive authority against your petitioner, now being exercised by the aforesaid court, officers and agents was obtained by methods contrary to and into and in violation [fol. 8] the constitutional requirements of "Due process of Law." Therefore, your petitioner respectfully moves and prays the Supreme Court to issue upon the said Milton F. Amrine, Warden of the Kansas State Penitentiary at Lansing, Kansas the prerogrative *Writ of Habeas Corpus*, That your petitioner may come forth and show to the Court that he is and has been deprived of his fight to "Due Process of Law," and is being held to involuntary servitude and deprived of his liberty in violation of his constitutional rights, in violation of the mandates of the constitution of the United States and in violation of the moral code of universal justice.

Very respectfully submitted. By C. H. Cochran,
In form Pauperis.

[fol. 9] IN SUPREME COURT OF KANSAS

In the Matter of the Application of C. H. COCHRAN for the Writ of Habeas Corpus

PETITIONERS BRIEF AND AUTHORITIES

Your petitioner comes with his cause, the Supreme Court for redress of the injuries which have been inflicted upon him by the unlawful usage by the power of State, the deprivation of his constitutional rights and the denial of a trial or hearing within the purview of the fundamental conceptions of justice. Your petitioner respectfully contends that the officers and the agents of the State of Kansas willfully deprived him of his constitutional right to compulsory process for witnesses for his trial.

Your petitioner respectfully contends that the United States Supreme Court in Carter v. Texas 177 U. S. 442, 447, 44, L. Ed. 839, 841, 20 S. Ct. 687; Rogers v. Alabama, 192 U. S. 226, 231, L. Ed. 417, 419, 24, S. Ct. 257, and Chicago B. and Q. R. R. Co. v. Chicago 166 U. S. 226, 233, 41, L. Ed. 979, 983, 17 S. Ct. 581, deals specifically with such conduct on the part of the State officers as constituting State action within the purview of the 14th amendment and inconsisitant with the requirements of "Due process of Law," to the same effect please see: Herbert v. Louisiana 272 U. S. 312, 316, 317, 71, L. Ed. 270, 273, 47 S. Ct. 103, 48 A. L. R. 1102.

Your petitioner respectfully contends that it was error for the court to overrule his motion for new trial in the absence of your, petitioner and to his knowledge without the presence of a court reporter, without hearing all of the movants evidence thereon or any record of such evidence as charge- against him was deprived from evidence from the officers themselves which acts by law are defined as "Compounding a Felony."

Your petitioner respectfully contends that it was in violation of the moral code of universal justice for the State, through its court, to proceed further against your petitioner until a full hearing on his motion was had and recorded. Your petitioner respectfully contends that he was entitled to his appeal and that acts of the State Officers and representatives in sup-ressing and impounding your petitioners [fol. 10] appeal documents, in order to deprive him of his timely appeal, constituties a direct, recorded denial of the

constitutional requirement of "Due process of Law," and a violation of your petitioners constitutional rights to redress of his injuries by "Due process of Law", 18th article of the Kansas Bill of rights—Frank v. Mangum 237 U. S. 309, 335, 59, L. Ed. 969, 983, 35 S. Ct. 582; More v. Dempsey 261 U. S. 86, 90, 91, 67 L. Ed. 543, 545, 546, 43 S. Ct. 265. Your petitioner contends that after he had struggled for over 2 years to get his motion out of the trial court and up to the Supreme Court of Kansas the limit had expired for his appeal and that your petitioner brought up the violation of "Due process of Law," before the court in form of the Writ of Habeas Corpus which was denied without a hearing.

Your petitioner respectfully contends that the state deprived him of due process of law, by not waiting and postponing trial to subponea his witnesses which wholl deprived your petitioner of his opportunity to be assured a fair trial which met the requirements of "Due process of Law." Please see: Roller v. Holly 176 U. S. 398, 20 S. Ct. 414; Standard Oil Co. v. Missouri 224 U. S. 281; Scott v. McNeal, 154 U. S. 34 and Robb v. Connolly 111 U. S. 624, 637, 28 L. Ed. 542, 4 S. Ct. 544.

Your petitioner respectfully contends that the state of Kansas, by and through its duly authorized officers, agents and representatives is illegally holding your petitioner to involuntary servitude and depriving him of his liberty upon pretense that your petitioner was duly convicted by a fair and impartial trial, of the Commission of a crime whereas the record plainly shows that his conviction was contrived through the pretense of a trial which in truth was but used as a means of depriving your petitioner of his liberty through a deliberate deception of the court, and jury by the presentation of false, unfounded, prejudicial inciting allegations of circumstancial evidence against your petitioner while willfully concealing the true pertinant evidence in the premis and unlawfully suppressing the testimony of the material witnesses to the crime charged which shows the innocence of your petitioner.

Your petitioner respectfully contends that he will show to the court by pertient and admissible evidence, that he has been arbitrarily denied the right to any lawful hearing of his cause by the Kansas courts and that he has exhauste every lawful remedy available in the Kansas jurisdiction to persons so situated as your petitioners Circumstances,—

Escoe v. Zerbst 295 U. S. 490, whereas your petitioner respectfully prays the court to issue upon the said Milton F. Amrine, Warden of the Kansas State penitentiary at Lansing, Kansas and respondent thereto, the Writ of Habess Corpus, that your petitioner may be relieved of further unlawful restraint and restored to his liberty.

Very Respectfully Submitted, C. H. Cochran.

[fol. 10a] In United States District Court for the District of Kansas, First Division

In the Matter of the Application of C. H. Cochran, for the Writ of Habeas Corpus

Petitioner's Statement of Facts

Abstract

On April 13th, 1933, the person of your petitioner, C. H. Cochran was taken by force and transported against his will and without his consent or any lawful warrant authorizing his arrest or restraint from Harper County to Sumner County, Kansas by the states Officials and that after the petitioner was lodged in the Sumner County jail, a warrant charging the petitioner with the crimes (1) Uttering and (2) passing a worthless check.

The record shows that on the 27th day of April, 1933, the petitioner was given a preliminary hearing and bound over for trial in the Sumner County District Court.

The record further shows that on the 27th day of April, 1933, the petitioner ask to have the following witnesses subpoenaed for a jury trial: Earle Peoples, Truck driver for the petitioner who was, at the time of his arrest the owner and operator of the Cleaning (dry) Establishment at Harper, Kansas.

Violet J. Cochran who was cashier of the firm and in such capacity, received from the driver Peoples as a part of his daily receipts, the check which your petitioner was charged with writing and passing.

Buck Heron, who personally knew the person who uttered the check involved.

Gladys Silvers, a friend of the party known as A. J. Messenger, the person who uttered the spurious check.

Elmer Madsen, a garage owner at Anthony, Kansas, who had heard the said A. J. Messenger admit that he uttered the spurious check with the intent to defraud an express the opinion that the petitioner could not be sent to the penitentiary for a check that was for less than $20.00 Dollars.

Mrs. Ada Peoples, who questioned the value of the check when her husband (Earl Peoples) turned it in with his daily receipts.

All of these material witnesses were excluded from the list to be subpeonaed for the trial and were not present.

The trial of your petitioner was pos-poned fron the 8th day of May, until the 15th, day of may 1933, without notice to your petitioner.

[fol. 10b] On the morning of May the 15th, 1933, about 9:30 A. M. and seated at the counsel table with his counsel Mr. Harry B. Davis of Anthony, Kansas. When the County Attorney called the petitioners case he stepped to the group of men seated in the chairs for the proposed jurors and the man all seated themselves in the jury-box all except one, he retired from the courtroom. The County Attorney then addressed them as jurors. Your petitioner ask then to his lawful examination of the jurors, this was denied. The County Attorney passed these remarks to the jury: Gentlemen of the jury, this man is an ex-convict and has been convicted several times before for forgery, (Your petitioner has never been convicted for forgery in any other state of the United States, or at any other time for the crime of forgery) and that the prisoner has been convicted from this County before. At this point your petitioner ask again that he be permitted to examine the jury, this was denied. He asked if his witnesses had been subpoenaed. His attorney said that they had and that they were somewhere in the courthouse, or that they would be there.

The County Attorney abused the prisoner with verbal statements to the jury, sneered and said to the jury that this man is guilty and is trying to put the state to the expense of a trial.

Again the petitioner ask to examine the jury, the judge told your petitioner to set down that it was not necessary to examine the jury, and your petitioner ask his attorney to stop the trial, to this he replied, that there was nothing that he could do as the court was determined to convict you and would not listen to him.

While the defense counsel was not an able counsel, he permitted the "railroading" of your petitioner by not offering objections to the procedure of and the conduct of the court.

At this point of the opening statement, the County Attorney again sneered at the petitioner and walked to the table and took from his "Brief-case" a sheave of papers and holding them up to the jury and again told the jury that the petitioner has been by this evidence (Holding up papers to the jury) convicted many times for the crime of forgery and he as the county attorney wanted the prisoner found guilty and put where he belonged. To this the court could not show any record of any previous convictions for the crime of forgery or any other lawful conviction in a penitentiary other than the one of 1928 from the county of Sumner County, Kansas.

[fol. 10c] The State call its first witness, E. E. Evans, the plaintiff. He told the court that he never at any time notified the petitioner that the said check had been "Protested." The next witness was the brother-in-law of the Plaintiff, his testimony said that he never tried to notify the petitioner of the valueless check and in no place in the testimony of these two did it co-inside with each other. Then followed several bankers that tried to indentify the hand-writing on the check, failed. Never at any time did the state show that the check was written by the petitioner. At no time did the state introduce a qualified hand-writing expert to show any simularity or evidence that the petitioner wrote the check. The plaintiff's testimony failed to prove that the petitioner wrote the check, or had any criminal knowledge or intent whatsoever in the matter. The state rested its case and recessed.

Mr. Davis, the Counsel for the defense then took the stand did testify with deliberate knowledge it was false and incriminating to your petitioner.

Your petitioner ask to take the stand in his own behalf, this was met with rigid opposition and denial. The petitioner was severely reprimanded when he ask for his rights, a disturbance issued, the court told your petitioner to set down, the defense rested its case.

The state opened its closing argument with a compromise and abuse to your petitioner with statements that were false and misleading, that the petitioner had been convicted previously for the crime of forgery (this the state did not

show and could not show to the jury) Never at anytime did the County Attorney show the jury any evidence or to the court that the petitioner had knowledge criminal or otherwise the check was worthless, after about 15 minutes of this abuse the state closed it's argument.

A verdict of guilty was returned on the second count (Passing of check) of which not one iota of evidence was introduced to show or sustain such a verdict. Your petitioner ask the defense counsel to give notice of appeal. Motion argued, if argued at all, in the absence of your petitioner.) (Later another notice was sent to the trial court of which no receipt was received.)

A statement was made by the sheriff Jeff Harris, of Sumner County, while enroute to the State Penitentiary, om the presence of two other convicted men as follows: Harry Snyder and Sydney Guy, that he had seen lots of cases tried and received "Rotten trials" but I never saw such a "Frameup" and dirty a trial as that one of yours." [fol. 11] Your petitioner then set out to secure evidence to prove his innocence, to which he secured an affidavit and confession from the man that wrote the check with the intent to defraud the firm of $12.60 * * *.

The petitioner then wrote and moved the trial court to reopen the case of State of Kansas v. Cochran on the discovery of new evidence to which the court never acknowledge the receipt of the motion. Copies of the original affidavit was confiscated. The State set about to block and forcibly restrain your petitioner from filing his appeal. Your petitioner ask that he be permitted to secure his transcript this was denied by the state authorized officials and agents and by the prison rules. The time your petitioner's appeal limit had expired and under similar restraint your petitioner was denied the right to file a petition for Writ of Habeas Corpus. Eventually the petition was filed in an unusual way, this petition was #32802, setting up several questions on the trial of your petitioner. This petition was denied by the state Supreme Court without so much as any kind of a hearing, and was arbitrarily denied and a decision was written without any lawful defense in the said case. Later a statement of facts was sent to the Supreme Court of Kansas to this reply was it was a serious charge to make such a statement. I moved the Supreme Court to rehear the petition and this was denied. The Supreme Court ask the Attorney General to investigate the

statement of facts to which your petitioner made a rigid objection. All of the action and motions were struck down without so much as a hearing. The petitioner ask the Supreme Court to certify the petitioner's petition, this was denied. A Notice of appeal was tendered to the Supreme Court Clerk, this was struck down.

The officers and agents of the State of Kansas set up another blockade and confiscated the papers and documents of your petitioner.

Your petitioner has evidence that the Warden, Lacy M. Simpson, E. M. Stubblefield Deputy Warden, A. J. Graham, Assistant Deputy Warden, A. S. Foulks, Pardon attorney, Board of Administration and other Authorized officers, and agents of the State of Kansas assisted in the blockade for redress.

Two prison Welfare workers who sought to help the petitioner was cautioned not to carry out papers for the petitioner or file any in the courts.

The following letters are from the Supreme Court of Kansas, The Attorney General's Office and the Board of Administration.

[fol. 12] Chas H. Cochran:

The letter yoor wrote to the U. S. Dept of Justice K. C., has become misplaced. If your will re-write it we will see about mailing it.

Lacy M. Simpson, Warden.

The above letter refer-ed to was wrote to the United States Department of Justice for the aid in the restrainment against your petitioner.

Letters addressed to attorneys was sestroyed and sent back to the writer and your petitioner.

Letters addressed to the petitioners mother for aid was destroyed and never mailed. Some were returned and petitioner were taken out. C. H. Cochran #3608. You will have to change this letter if you want it mailed. Under the minutes of the Administration all matters pertaining to Habeas Corpus must be refered to the Board. That was what was done with your motions.

Lacy M. Simpson, Warden.

The letters refered to above were written to the Clerk of the United States District Court.

The following letter is from Chief Justice R. A. Burch of the Supreme Court of the State of Kansas;

I have your letter of June 1, asking that I take some action with the reference to the conduct of Mr. Lacey Simpson, Warden of the State Penitentiary, and the Hon. A. S. Foulks, Pardon Attorney, relating to enforcement of an order of the United States District Court of the Judge thereof.

I have no authority and the Supreme Court of the State of Kansas has no authority to enforce to orders of a Federal Court.

Also, I have no authority and the Supreme Court has no general authority to gegulate management of the affairs of the State Penitentiary.

Yours Very truly, R. A. Burch, Chief Justice, Supreme Court of Kansas, Topeka, Kansas.

The petitioner wrote the Attorney General's office several times and ask that he assist your petitioner to secure his rights in the courts and stop the interference of the Prison Authorities. On September 2, 1937 a response from the Attorney General's office reads as Follows:

Mr. C. H. Cochran, Kansas State Penitentiary, Lansing, Kansas.

[fol. 13] Dear Sir:

I wish to acknowledge your letter of August 18th, 1937, relative to your conviction and subsequent sentence to the penitentiary.

I regret that this office cannot aid you in the matter of securing your release or in the matter of securing rehearing in your case. Bu statute, it is the duty of the members of this office to oppose any attempt, by any prisoner in the state penitentiary to secure his release by legal proceedings. Regretting that I cannot aid you personally I am,

Very truly yours, Clarence V. Beck, Attorney General. WES:AN.

Thru the action of the Attorney General of the state of Kansas and other Authorized Officials, blockade to legal procedure had been set up.

On the 17th day of June 1936, a petition was filed in the United States District Court, after same had been filed

in the State Supreme Court and denied without so much as a hearing. A blockade was the- set up to stop the filing of the petition. After the authorities of the States and authorized agents confiscated the petitioners Papers, your petitioner Moced the Court to "Enjoin" the warden and other officials of the State from further interference; this was filed on the 22nd of July 1936.

Time after time your petitioner ask- the judges of the Supreme Court of Kansas for advice as to how your petition could file orderly and proper processes into the court. Time after time the court refer-ed your petitioner to the parties that set up the "Perpetual" blockade that prevented your petitioner's timely appeal and filing proper procedures.

Your petitioner is now being held to involuntary servitude in the Kansas State Penitentiary by force and denials of his timely appeal as provided by law to every American Citizen.

Your petitioner will show by the record, that the officers and agents for the State of Kansas, have since the moment of his arrest, exercised as despotic censorship over ever-document, process or letter made or written by your petitioner to the end that he has been denied of his good and meritous answer to the charge against him and permitted to show only as much of any defense or process as suited the officer and agents of the State of Kansas.

Your petitioner respectfully asserts to the court that he has never read or been able to prevail upon the State or the State's officers to furnish any part of the record to him. [fols. 14-16] Therefore, your petitioner respectfully contends that all records be brought before the court for judicial examination.

Respectfully submitted, C. H. Cochran, Petitioner.

STATE OF KANSAS,
County of Leavenworth, ss:

I, Charles Cochran, of lawful age, first being duly sworn, do upon solemn oath, aver that the foregoing "statement of facts is true in every detail.

C. H. Cochran.

[fol. 17] AFFIDAVIT OF C. H. COCHRAN

STATE OF KANSAS,
County of Leavenworth, ss:

Comes now C. H. Cochran being of lawful age, after being duly sworn disposes and says, that in June 1936 he did file a petition for the Writ of Habeas Corpus. This petition No. 32,802 Cochran vs. Simpson, was wrote and sent to his sister, Mrs. L. B. Godfrey by underground method of which was filed, a decision rendered and Syllabus wrote by the Supreme Court, denying the petitioner his lawful right to enter his defense. The petitioner then moved too have a certified copy of petition, all of which was denied.

This petition was never mailed through the prison Authorities and regular mail channels and being a layman the petitioner never realized that the officials had no Authority to deny a lawful appeal. If the petition #32,802 made the act of Mr. Simpson and the State of Kansas a part of the petition then the State Supreme Court failed to conclude it as part of opinion and thereby, if such had been a part of the petition then the State Supreme Court held it lawful for but in the petition he set out the full reasons why he had been denied the fight to redress in the Court. He further states that he was denied the right to have same petition certified by the prison notary public. The opinion of the Supreme Court was arbitrary and prejudicial by denying petition- his defense before rendering said opinion.

In the second petition attacked the Constitutionality of the Habitual Criminal law, charging the Law to be a "Ligislatis Bill of Attainde". The court refused to consider the petition and it was filed in the Federal District Court, Case No. H. C. 421. This case was denied against the petitioner, but Judge Hock did rule that the excessive sentence was Null and Void. Then based his opinion upon the Subject matter of petition.

The petition of C. H. Cochran never at any time brought forth the act of the Lacy M. Simpson, Warden, E. M. Stublefield, Deputy Warden, Nor the acts of the court of Sumner County as an issue to be decided. But the petitioner can show by record that petitioner had to ask the Federal Court to Enjoin Lacy Simpson Warden, et al. from the unlawful restraint of petitioner Contacting the United

States District Court on file. Case No. #421. H. C. Cochran vs. Simpson. And that the action of the State of Kansas and the Warden of the State officials and duly authorized agent has never been ruled upon by any court.

And that C. H. Cochran was unlawfully denied his timely appeal for over 4 years. Affiant saith no further.

C. H. Cochran, Affiant.

[fol. 18] In the Leavenworth County District Court
First District of Kansas

In the Matter of Application of C. H. Cochran for the Writ of Habeas Corpus

Affidavit of Citizenship and Paupers Oath

I, Charles H. Cochran, being of lawful age, do, upon my oath most solemnly swear that I was born of American parents at Verona, Missouri, on the 12th day of December 1901, and that I have since the date of my birth, resided in the boundaries of the United States continue-ly, and that I am now and always have been, a Citizen of the United States and for the past six years a citizen of the State of Kansas.

I, the said C. H. Cochran, do solemnly aver that I own no property or personal or real whatever, and that I do not possess any funds or other resources with which to pay any attorney fees, filing fees, court costs, printing costs or any other obligations ordinarily incurred by those who must resort to legal process in persuit of justice.

Therefore, I respectfully contend that I am of that class of person by the common law, the statute laws of the state of Kansas and of the United States, defined as a pauper,

Wherefore I respectfully pray for the leave of the Court to prosecute an application for the Writ of Habeas Corpus.

Respectfully submitted, C. H. Cochran.

[fol. 19] Affidavit of C. H. Cochran

I, C. H. Cochran, being of lawful age, after being duly sworn make the following Statement and solemnly swear to be true.

On or about the 8th day of June, 1935, The Board of Administration of the Kansas State Penitentiary posted an order that no petition- shall be filed in the Court unless it was approved by them, or to some effect.

C. H. Cochran, Affiant.

[fol. 20] In Supreme Court of Kansas at Topeka, Kansas

In the Matter of Application of C. H. Cochran for the Writ of Habeas Corpus

Motion for Order Directing District Court of Sumner County to Certify Record etc.

Comes now Charles H. Cochran, your petitioner in the above entitled action and respectfully moves and prays the court to summon into court for judicial notice and examination all records, documents, transcripts and entries now on file in your petitioners cause in the office of the Clerk of the Sumner County District Court at Wellingto, Kansas in the office of the Clerk of The Supreme Court, at Topeka, Kansas for reasons that the State, through its duly Authorized Officers and representatibes has consistanyly refused to prove your petitioner with any fascimile of such records, documents transcripts and and entries and have repeatedly been permitted to proceed against your petitioner by allegation and contentions drawn from their own behalf, ingenuity and personal prejudice and not from the record, to the end that there are now on file in the record statements and assertions against your petitioner which are exactly counter to the record and are such as to inflict great and unlawful injury upon your petitioner.

Your petitioner further moves that the lieu of any counsel in his behalf who is informed in the premis, all filed be subject to the approval of your petitioner as to the correctioness of words, figures etc.

Appearing on the face thereof, and that all records and files not so approved be subject to proof of its correctness by trial.

Respectfully Submitted, Charles H. Cochran, Petitioner.

[fol. 21] AFFIDAVIT OF EMMA L. HINTON

I, Emma L. Hinton being of lawful age and duly sworn disposes and states that on or about June 1st, 1934 C. H. Cochran an inmate of the Kansas State Prison by written Consent gave me power of attorney to act in his behalf in the Supreme Court of Kansas to file and execute all transaction in that court. On June 15th 1934, Mr. E. M. Stubbliefield, deputy warden called me into his office and forbade me to take out any more papers belonging to C. H. Cochran. I therefore could do nothing further, After Mr. Kirk Prather came in as Warden I was allowed to take the papers for Keeping and they still remain in my hands.

"Mother" Emma L. Hinton, Affiant.

Subscribed and sworn to before me this 28th day of August, A. D. 1940. El Freda McCullough, Notary public. My commission expires September 4, 1940.

I, C. H. Cochran after being duly sworn sweras that the foregoing statement is a true copy of the original statement.

C. H. Cochran, Affiant.

[fol. 22] AFFIDAVIT OF FRANK BOAZ

I, Frank Boaz, being of lawful age, after being duly sworn disposes and avers, that on or about the 14th day of June, 1933, C. Ch. Cochran aske me to offer correction to errors, if any in his appeal documents. After he had finished readint the papers he stated that he was going to file them and went to the deputy wardens offs, upon his return he informed me that his papers had been confiscated by the deputy warden. About a year latter C. H. Cochran Complained again that he had been restrained from filing he appeal papers.

The affiant swears no further.

Frank Boaz, Affiant.

Subscribed and sworn to before me this 9th day of Sept. A. D. 1940. R. D. Payne, Notary public. My commission expires April 18th, 1941.

I, C. H. Cochran after being duly sworn swears that the foregoing statement is a true copy of the original statement.

C. H. Cochran, Affiant.

[fol. 23] AFFIDAVIT OF C. C. CREBS

I, C. C. Crebs, being of lawful age do upon oath after being sworn disposes and say on or about the 15th day of May, 1933, C. H. Cochran asked me to offer correction to errors, if any, in his appeal documents.

After he had finished reading the papers he state that he was going to file them and went to the Deputy wardens office. Upon his return he informed me that his papers had been confiscated by the deputy warden.

About a year later C. H. Cochran complained again that he had been restrained from filing his appeal.

C. C. Crebs, Affiant.

Witness my hand and seal this 9th day of September, A. D. 1940. R. D. Payne, Notary public. My commission expires as notary public on the 18th day of April, 1941.

I, C. H. Cochran after being duly sworn swears that the foregoing statement is a true copy of the original statement.

C. H. Cochran, Affiant.

[fol. 24] AFFIDAVIT OF C. H. COCHRAN

I, C. H. Cochran, being of laaful aged and after being duly sworn disposes and states that on June the 3rd, 1933, I posted through the regular mail two copies of notice of appeal.

The Court never acknowledged receipt of same and I sent 2 more on the 10th day of June 1933, these copies were confiscated and destroyed by the Deputy Warden A. J. Graham.

Then I sought to mail my appeal papers to the Supreme Court all of which were taken away from me and destroyed and I was from time to time denied the right to file lawfully and timely any action to a lawful hearing.

C. H. Cochran, Affiant.

Subscribed and sworn to before me this 9 day of Sept., A. D. 1940. R. D. Payne, Notary Public. My commission expires 18th April, A. D. 1941.

[fol. 25] AFFIDAVIT OF C. H. COCHRAN

I, C. H. Cochran, being of lawful age, after being duly sworn avers, that he has served notice of his appeal from the order of dismissal of his Writ of Habeas Corpus, Which was denied and dismissed without a hearing by the District Court of Leavenworth County Kansas on the 11th day of December 1940. By mailing to the Respondent, M. F. Amrine, Warden of the Kansas State Penitentiary and 2 Copies to the Clerk of Court, Leavenworth Kansas Complying with sec 60-3306. and thereby

Affiant saith not further.

C. H. Cochran, Affiant.

[fol. 26] J. H. Wendorff, Judge, First Judicial District, Leavenworth, Kansas

Dec. 11, 1940.

Mr. C. H. Cocharan, Box 2, Lansing, Kansas.

DEAR MR. COCHRAN:

I have examined your petition for writ of habeas corpus containing a Journal Entry of the moroceedings in the District Court of Sumner county, in which you were convicted, and find nothing irregular in proceedings, which would authorize the issuing a writ of habeas corpus. The matters you complain of should have been corrected by an appeal to the Supreme Court. I cannot re-try the case, and correct the errors you complain about.

For that reason I am denying the petition.

Very truly yours, J. H. Wendorff.

JHW:CT.

Copy

IN THE DISTRICT COURT OF LEAVENWORTH COUNTY, KANSAS

No. —

In Re C. H. COCHRAN

APPLICATION FOR WRIT OF HABEAS CORPUS

After examination of the peition in the above entitled action. I find that the petition does not state facts suf-

ficient to warrant the issuing of a writ of habeas corpus, and the request for such a writ is therefore denied.

J. H. Wendorff, Judge.

I, C. H. Cochran after being duly sworn disposes and says that the above is a true copy of the original.

C. H. Cochran, Affiant.

Subscribed and sworn to before me this 9 day of Sept., A. D. 1940. —— ——, Notary Public. My commission expires 18th April A. D. 1941.

[File endorsement omitted.]

[fol. 27] Clerk's Certificate to foregoing paper omitted in printing.

[fol. 28] In Supreme Court of Kansas

Re: 35156

In the Matter of C. H. Cochran, for the Writ of Habeas Corpus, Petitioner,

vs.

Milton F. Amrine, Warden, Kansas State Penitentiary, Respondent

Motion for Leave to Appear Before Court—Filed March 11, 1941.

Comes now; your petitioner of the above entitled cause and moves the court for the petitioners appearance for reason, to put in his lawful defense and introduce pertinant evidence material in his Cause to the above entitled action, in that he was and has been denied the right by the Leavenworth County District Court, which Considered, Denied and dismissed without a lawful hearing, within the meaning the Constitutional Guaranties or any hearing at all. Therefore; your petitioner cannot consider any action or hearing, where his defense is not entered or his evidence properly Considered by the court as a valid hearing and your petitioner moves and prays the Court to order the petitioner of the above entitled cause brought before the court for the above reason mentioned.

C. H. Cochran, Petitioner.

[File endorsement omitted.]

[fol. 29] IN SUPREME COURT OF KANSAS

35156

In the Matter of C. H. COCHRAN for a Writ of Habeas Corpus, Petitioner,

MILT F. AMRINE, Warden of the Kansas State Penitentiary, Respondent

ORDER DOCKETING APPLICATION ETC.—March 15, 1941

This court having under consideration a verified application for a Writ of Habeas Corpus herein, it is ordered that said application be docketed and consolidated with the case of In the Matter of C. H. Cochran for a Writ of Habeas Corpus, Appellant v. Milt F. Amrine, Warden of the Kansas State Penitentiary, Appellee, No. 35156.

It is further ordered that the provisions of Rule No. 2 be waived.

It is further ordered that the petitioner and appellant serve and file his abstract and brief, giving the appellee sufficient time to serve and file his abstract and brief on or before the 10th day of April, 1941, the day on which these cases are assigned for hearing in this court.

It is further ordered that the motion of the petitioner and appellant to appear before the court on the day these cases are heard will be dealt with when the cases are ready for hearing.

By the Court. (Seal.)

[fol. 30] IN SUPREME COURT OF KANSAS

In Re: No. 35156

In the Matter of Application of C. H. COCHRAN for the Writ of Habeas Corpus, Petitioner,

vs.

THE HONORABLE JOHN DAWSON, Chief Justice of the Supreme Court of Kansas, State of Kansas, et al., Respondent

MOTION FOR LEAVE TO APPEAR BEFORE COURT—Filed March 18, 1941

Comes now C. H. Cochran your petitioner and alleges that the court has been duly moved by "Motion for appear-

ance" that all evidence may be presented before the court and to act as counsel in his own defense, in that the court to date has denied the petitioner proper defense in his petition No. 35156 now on file in that court, by non-appointment of competent counsel. The petitioner must act in own defense and is therefore a direct denial of constitutional requirements as follows:

I

That Constitution of the United States Guarantees Competent Defense for an unlawful imprisonment of Citizen of the United States.

II

The Denial of defense to Habeas Corpus proceedings, is a direct violation of the Constitution of the United States by lack appointment of Counsel or defense by the petitioner in own behalf wherein the petitioner is in poverty circumstances.

III

To deny the pauper the right of defense is a direct Violation of equal protection and accessibility to the court and denies the petitioner the right to a lawful hearing of the cause at bar, permitting a biased and oneside decision by the court.

Therefore your petitioner prays that the court will let issue a Writ of Habeas Corpus and produce your petitioner in the Supreme Court that he may defend his cause before the court in petition No. 35156, now on file in that court in Re: C. H. Cochran v. Milton F. Amrine, Warden of the Kansas State penitentiary, all of which defense is within the provision of the United States Constitution for a lawful hearing on subject matter contained in said petition filed therein, and petitioner contends that it is his right {fols. 31-32} to enter his evidence and defense, So that an impartial hearing may be had and defend his liberty against any and all acts of the court and state and your petitioner Prays that said Writ be issued that petitioner may be brought into Court.

C. H. Cochran, Petitioner Pro Se:

Subscribed and sworn to before me this 14 day of Mch. A. D. 1941. R. D. Payne, Notary Public. My commission expires Apr. 18, A. D. 1941. (Seal.)

[File endorsement omitted.]

[fol. 33] IN SUPREME COURT OF KANSAS

No. 35156

C. H. COCHRAN, Appellant,

vs.

MILTON F. AMRINE, Warden Kansas State Penitentiary, Appellee

ABSTRACT OF APPELLANT—Filed March 20, 1941

C. H. Cochran, Appellant, Pro Se:

Appeals from the District Court of Leavenworth County, Kansas, Honorable J. H. Wendorff, Judge

[fol. 34] On April 13th, 1933, the person of your petitioner, C. H. Cochran was taken by force and transported against his will and without his consent or any lawful warrant authorizing his arrest or restraint from Harper County to Sumner County, Kansas by the State Officials and that after the petitioner was lodged in the Sumner County Jail, a warrant charging the petitioner with the crimes (1) Uttering and (2) passing a worthless check.

The record shows that on the 27th day of April, 1933, the petitioner was given a preliminary hearing and bound over for trial in the Sumner County District Court.

The record further shows that on the 27th day of April, 1933, the petitioner ask to have the following witnesses subpeonaed for a jury trial; Earl People, Truck driver for the petitioner who was, at the time of his arrest the owner and operator of the Cleaning (dry) Establishment at Harper, Kansas.

Violet J. Cochran, who was chashier of the firm and in such capacity, received from the driver peoples as a part of his daily receipts, the check which your petitioner was charged with writing and passing.

Buck Heron, who personally knew the person who uttered the check involved.

Gladys Silvers, a friend of the party known as A. J. Messenger, the person who uttered the spurious check.

Elmer Madsen, a garage owner at Anthony, Kansas who had heard the said A. J. Messenger admit that he uttered the spurious check with the intent to defraud and express the opinion that the petitioner could not be sent to the penitentiary for a check that was for less than $20.00 dollars.

Mrs. Ada Peoples, who questioned the value of the check when her Husband (Earl Peoples) turned it in with his daily receipts.

All ot these material witnesses were excluded from the list to be subpeonaed for the trial and were not present.

The trial of your petitioner was post-poned fron the 8th day of May until the 15th day of May, without notice to your petitioner.

On the morning of May the 15th, 1933, about 9:30 A. M. and seated at the counsel table with his counsel Mr. Harry B. Davis of Anthony, Kansas. When the County Attorney called the petitioner's case he stepped to the group of men seated in the chairs for the proposed jurors and the men all seated themselves in the jury-box all except one, he retired from the courtroom. The County Attorney then addressed them as jurors. Your petitioner ask then to his lawful examination of the jurors, this was denied. The County Attorney passed these remarks to the jury: Gentleman of the Jury, this man is an ex-convict and has been convicted several times before for forgery; (Your petitioner has never been convicted for forgery in any other state of the United States or at any other time for the crime of forgery) and that the prisoner has been convicted from this County before. At this point your petitioner ask again that he be permitted to examine the jury, this was denied. He ask if his witnesses had been subpeonaed. His attorney said that they had and that they were somewhere in the courthouse, or that they would be there.

The County Attorney abused the prisoner with verbal statements to the jury sneered and said to the jury that this man is guilty and is trying to put the state to the expense of a trial.

[fol. 35] Again the petitioner ask to examine the jury, the judge told your petitioner to set down that it was not necessary to examine the jury, and your petitioner ask his

attorney to stop the trial, to this he replied, that there was nothing that he could do *as the court was determined to convict* you and would not listen to him.

While the defense counsel was not an able counsel, *he permitted the "railroading"* of your petitioner by not offering objections to the procedure of and the conduct of the court.

At this point of the opening statement, the County Attorney again sneered at the petitioner and walked to the table and took from his "Brief-case" a sheave of papers and holding them up to the jury and again told the jury that the petitioner had been by this evidence (Holding up papers to the jury) convicted many times for the crime of forgery and he as the county attorney wanted the prisoner found guilty and put where he belonged. To this the court could not show any record of any previous convictions for the crime of forgery or any other lawful convictions in a penitentiary other than the one of 1928 from the county of Sumner County, Kansas.

The State called its first witness, W. E. Evans, the plaintiff. He told the court that he never at any time notified the petitioner that the said check had been "Protested." The next witness was the brother-in-law of the plaintiff, his testimony said that he never tried to notify the petitioner of the valueless check and in no place in the testimony of these two did it co-incide with each other. Then followed several banker- that tried to identify the handwriting on the check, failed. Never at any time did the state show that the check was written by the petitioner. At no time did the State introduce a qualified hand-writing expert to show any simularity or evidence that the petitioner wrote the check. The plaintiff's testimony failed to prove that the petitioner wrote the check. The plaintiff's testimony failed to prove that the petitioner wrote the check or had any criminal knowledge or intent what-soever in the matter. The state rested its case and recessed.

Mr. J. Rodgerson, a witness for the defense was called to the stand to refute the testimony of the said Elmer Holt, a witness for the state that introduced suborn testimony (deliberate) at the pleasure of the state, then who later mixed with the jury while at recess.

Mr. Davis, the Counsel for the defense then took the stand did testify with deliberate knowledge it was false and *and* incriminating to your petitioner.

Your petitioner ask to take the stand in his own behalf, this was met with rigid opposition and denied. The petitioner was severely reprimanded when he ask for his rights, a disturbance issued, the court told your petitioner to set down, the defense rested its case.

The state opened its closing argument with a compromise and abuse to your petitioner with statements that were false and misleading, that the petitioner had been convicted previously for the crime of forgery (this the state did not show and could not show to the jury) never at any time did the County Attorney show the jury any evidence or to the court that the petitioner had knowledge criminal or otherwise the check was worthless, after about 15 minutes of this abuse the state closed it's argument.

A verdict of guilty was returned on the second count (passing of check) of which not one iota of evidence was introduced to show or sustain such a verdict. Your petitioner ask the defense counsel to give notice of appeal. Motion argued, if argued at all, in the absence of your petitioner. (Later another notice was sent to the trial court of which no receipt was received.)

[fol. 36] Your petitioner then set out to secure evidence to prove his innocence, to which he secured an affidavit and confession from the man that wrote the check with the intent to defraud the firm of $12.60.

The petitioner then wrote and moved the trial court to reopen the case of state of Kansas v. C. H. Cochran on the discovery of new evidence to which the court never acknowledged the receipt of the motion. Copies of the original affidavit was confiscated. The state set about to block and foecibly restrain your petitioner from filing his appeal. Your petitioner ask that he be permitted to secure his transcript, this was denied by the State authorized officials and agents and by the prison rules. The time of your petitioner's appeal limit had expired and under similar restraint your petitioner was denied the right to file a petition for a Writ of Habeas Corpus. Eventually the petition was filed in an unusual way, this petition was #32802, setting up several questions of the trial of your petitioner. This petition was *denied by the Supreme Court without so much as any kind of a hearing, and was arbitrarily denied*, and a decision was written without any lawful defense in the said case. Later a statement of facts was sent to the Supreme Court of Kansas, to this their

reply was it was a serious charge to make such a statement. Petitioner moved the Supreme Court to rehear the petition and this was denied. The Supreme Court ask- the Attorney General to investigate the statement of facts to which your petitioner made a rigid objection. All of the action and motions were struck down without so much as a hearing. The petitioner ask- the Supreme Court to certify the petitioner's petition, this was denied. A notice of appeal was tendered to the Supreme Court Clerk, this too was struck down. The Officers and agents of the State of Kansas set up another blockade and confiscated the papers and documents of your petitioner.

Your petitioner has evidence that the Warden, Lacy M. Simpson, E. M. Stubblefield — Deputy Warden, A. J. Graham, Assistant Deputy Warden, A. S. Foulks, Pardon Attorney, Board of Administration and other authorized Officers and agents of the State of Kansas assisted in the blockade for redress.

Two Prison Welfare workers who sought to help the petitioner was cautioned not to carry out papers for the petitioner of file any in the courts.

The following letters are from the Supreme Court of Kansas, The Attorney General's Office and the Board of Administration:

5-15-35.

C. H. COCHRAN:

The letter you wrote to the U. S. Dept. of Justice K. C. has become misplaced. If you will re-write it we will see about mailing it.

Lacey M. Simpson, Warden.

The above letter refer-ed to was wrote to the United States Department of Justice for aid in the restraint against your petitioner.

Letters addressed to Attornies was destroyed and sent back to the writer and your petitioner.

Letters addressed to the petitioner's mother for aid was destroyed and never mailed. Some were returned and petitioners were taken out.

C. H. COCHRAN. #3608:

You will have to change this letter if you want it mailed. Under the minutes of the Administration all matters pre-

taining to Habeas Corpus must be refer-ed to the Board, that was what was done with you- motions.

Lacey M. Simpson, Warden.

The letters refer-ed to above were written to the Clerk of the United States District Court.

[fol. 37] The following letter is from Chief Justice, R. A. Burch of the Supreme Court of the State of Kansas:

I have your letter of June 1; asking that I take some action with the reference to the conduct of Mr. Lacey Simpson, Warden of the State Penitentiary, and the Hon. A. S. Foulk, Pardon Attorney, relating to enforcement of an order of the United States District Court of the Judge thereof.

I have no authority and the Supreme Court of the State of Kansas has no Authority to enforce the orders of a Federal Court.

Also, I have no authority and the Supreme Court has no general authority to regulate management of the affairs of the State Penitentiary.

Yours very truly, R. A. Burch, Chief Justice Supreme Court of Kansas, Topeka, Kansas.

The petitioner wrote the Attorney General's office several times and ask that he assist your petitioner to secure his rights in the courts and stop the interference of the Prison authorities. On September 2, 1937 a response from the Attorney General's office reads as follows:

Mr. C. H. Cochran, Kansas State Penitentiary, Lansing, Kansas.

Dear Sir:

I wish to acknowledge your letter of August 18th, 1937, relative to your conviction and subsequent sen-ce to the penitentiary.

I regret that this office cannot aid you in the matter of securing your release, or in the matter of securing rehearing in your case. By Statute, it is the duty of the members of this office to oppose any attempt, by any prisoner in the state penitentiary, to secure his release therefrom by legal proceedings. Regretting that I cannot aid you personally, I am

Very truly yours, Clarence V. Beck, Attorney General. WES:an.

Thru the actions of the Attorney General of the State of Kansas and other Authorized officials, blockaded to legal procedure had been set up.

On the 17th day of June 1938, a petition was filed in the United States District Court after same had been filed in the State Supreme Court and denied without so much as a hearing. A blockade was the set up to stop the filing of the petition. After the Authorities of the State and authorized agents confiscated the petitioners Papers, your petitioner Moved the Court to "Enjoin" the warden and other Officials of the State from further interference; this was filed on the 22nd of July 1936.

Time after time your petitioner ask the Judges of the Supreme Court of Kansas for advise as to how your petitioner could file orderly and properly processes into the court. Time after time the court refer-ed your petitioner to the parties that set up the "Perpetual" blockade that prevented your petitioner's timely appeal and filing proper procedures.

[fol. 38] Your petitioner is now being held to involuntary servitude in the Kansas State penitentiary by force and denials of his timely appeal as provided by law to every American Citizen.

Your petitioner will show by the record, that the officers and agents for the state of Kansas, have since the moment of his arrest, exercised a despotic censorship over every document, process of letter made or written by your petitioner, to the end that he has been denied of his good and meritorious answer to the charge against him and permitted to show only as much of any defense or process as suited the officers and agents of the State of Kansas.

Your appellant has reasons and right to his appeal by error of the court and by choice.

The foregoing is a true and correct abstract of the above case.

C. H. Cochran, Appellant Pro Se:

[fol. 39] ABSTRACT IN PROCEDURE OF APPEAL FROM THE LEAVENWORTH COUNTY KANSAS DISTRICT COURT

The Appellant filed his petition of Habeas corpus in the District Court of Leavenworth County on the 14th day of November, 1940 and the court considered and denied the

petition on the 11th day of December 1940. Thereupon: the petitioner and appellant duly gave notice of his intent to appeal to the Supreme court of Kansas and complied with Sec. 3306, R. S. of Kansas, by showing by affidavit, therefor perfecting said appeal.

The reaosn of this appeal was that the District court of Leavenworth County, was for failure to give a legal and lawful hearing of said petition and that said denial was against your appellant and that said decision did not concur with rulings of the United States Supreme Courts on subject matter, all of which is a right of the appellant to secure redress for wrongs and injuries inflicted by the state of Kansas and officers and agents thereof.

The appellan- not being learned in court procedure, may have been very informal in his petition and pleadings, but the entire petition, brief and statement of facts (Abstract) are correct in every detail.

In the petitioners and appellants efforts to make orderly pleadings and filing into the Supreme Court of Kansas from district of Leavenworth County, confiscation and impounding of such papers commenced again by the respondent, Milton F. Amrine warden of the Kansas State Penitentiary and LeRoy Bradfield, pardon and parole attorney, all of which has been repeatedly complained of without material results Until the 16th day of March, 1941. Papers that were addressed to the Clerk of Supreme Court of Kansas, has been held and impounded in the office of LeRoy Bradfield, pardon attorney since the 9th day of February, 1941. Petition, Brief Abstract and pleadings has been filed in forma pauperis.

The appeal #35156 is now pending in the Supreme Court of Kansas set for hearing on the 10th day of April 1941.

This is a true and correct Abstract of the appeal of the appellant.

C. H. Cochran, Appellant, Pro Se:

[fol. 40] BRIEF

In Procedure on Appeal from the District Court of Leavenworth County Kansas

The appellant and petitioner has by constitutional law the right to process in Habeas Corpus however informal it may be, and that he is entitled to a lawful hearing thereon.

A right of defense against such injuries inflicted and redress for such wrongs.

12 R. C. L. 1180, 1236, The Writ of Habeas corpus is a Writ of right, and is sometimes issued upon very informal application, motion to quash the writ does not lie because of mere formal defect in the petition upon which it was issued; the inquiry in such cases bring to the technical formality of the showing made to the court for the issuance of the writ, but as to the legality of the detention of the prisoner.

The illegal impounding of legal documents by the state of Kansas, officers, and agents or the respondent to said petition, Violates the right of constitutional guaranties by denying equal protection of the law.

See Exparte Virginia 100 U. S. 346.

The appellant says that the acts of the respondent et al. is the act of the State, by denying orderly process and impounding appellants papers and documents appertaining to his action in Habeas Corpus being mailed to the Court for filing.

Respectfully Submitted, C. H. Cochran, Appellant, Pro Se:

[fol. 41] IN SUPREME COURT OF KANSAS.

No. 35156

C. H. COCHRAN, Appellant,

vs.

MILTON F. AMRINE, Warden Kansas State Penitentiary, Appellee

BRIEF OF APPELLANT

C. H. Cochran, Pro Se:

Appeal from the District Court of Leavenworth County, Kansas

Honorable J. H. Wendorff, Judge.

[fol. 42] Citations Refered

Carter v. Texas, 177 U. S. 442, 447, 44 L. Ed. 839, 841, 20 S. Ct. 687.

Rogers v. Alabama, 192, U. S. 226, 231, L. Ed. 417, 419 S. Ct. 857.

Chicago, B and Q. R. R. v. Chicago, 166 U. S. 226, 233, 41, L. Ed. 979, 983, 17 S. Ct. 581.
Herbert v. Louisiana, 272 U. S. 312, 316, 317, 71. L. Ed. 270, 273, 47 S. Ct. 103, 48. A. L. R. 1102.
18th Artical Kansas Bill of Rights.
Franks v. Mangum, 237 U. S. 309, 335, 59 L. Ed. 969, 983, 35 S. Ct. 582.
More v. Dempsey 26, U. S. 86. 90, 91, 67, L. Ed. 543, 545, 546, 43, S. Ct. 265.
Roller v. Holly 176 U. S. 398, 20 S. Ct. 414.
Standard Oil Co. v. Missouri, 224 U. S. 281.
Scott v. McNeal, 154 U. S. 34.
Robb v. Connolly, 111 U. S. 624, 637, 28 L. E. 542, 546, 4 S. Ct. 544.

[fol. 43] [Title omitted]

NATURE OF CASE

The Appellant, C. H. Cochran, was tried in the District Court of Sumner County, Kansas on information, charged with (2) Counts of forgery, (1) Making and (2) uttering, * * *

In abstracting this case the appellant has attempted to set up part of the facts and circumstances surrounding the case up to present time.

The appellant was denied a fair and lawful trial before a prejudice jury, in that the opening statement of county attorney was prejudical and placed defendant in jeopardy (2) the right to examine jury was denied, (3) the Introduction of suborn testimony by the State (4) The witnesses of the State mixing and talking with jurors during recess, (5) That the defense witnesses had never been subpoenaed.

The appellant gave a timely notice of appeal to the District court of Sumner county which was handed to the Deputy warden to mail on the 8th day of June 1933.

[fol. 44] The appeal was written and presented for mailing on or about July 15, 1933, (Addressed to the Supreme Court) to the then Deputy Warden A. J. Graham. The Brief and abstract was never mailed, but returned to your

appellant, Stating that prison rules did not permit the filing of the appeal.

Your appellan tried again to mail the abstract and brief to the Court on or about May 15th, 1934, Mr. E. M. Stubblefield confiscated appeal documents and your appellant was reprimanded for his efforts and told to stop. Since June 1933, up until the time when the limit of timely appeal had exhausted, your appellant was forcibly restrained from his orderly appeal by the officers and agents of the State of Kansas and the Kansas State Penitentiary.

The appellan shows by record that the District Court of Leavenworth County refused to hear the petition of Habeas corpus now on file in that court, 35156 and allow the appellan witnesses to sustain the fact of such action of the officer and agents of Kansas.

The appellan has been denied without a hearing, all of his lawful, Orderly remedies prescribed by the Statutes of Kansas for redress of the injuries which has been inflicted upon him by the unlawful usage by the power of State.

[fol. 45] Your petitioner comes with his cause, to the Supreme Court of Kansas only after he had been denied without hearing, all of the lawful, orderly remedies prescribed by the statutes of Kansas for redress of the injuries which have been inflicted upon him by the unlawful usage by the power of state, the deprivation of his constitutional rights and the denial of a trial or hearing within the purview of the fundamental conceptions of justice. Your petitioner respectfully contends that the officers and the agents of the state of Kansas willfully deprived him of his constitutional right to conpulsory process for witnesses for his trial.

Your petitioner respectfully contends that the United States Supreme Court in Carter v. Texas, 177 U. S. 442, 447 44 L. Ed. 839, 841, 20 S. Ct. 687, Rogers v. Alabama, 192, U. S. 226, 231, L. Ed. 417, 419, 24 S. Ct. 857, and B. and Q. R. R. Co. v. Chicago 166 U. S. 226, 233, 41 L. Ed. 979, 983, 17 S. Ct. 581, deals specifically with such conduct on the part of the state officers as constituting state action within the purview of the 14th Amendment and in consistent with requirements of "Due process of Law" to the same effect, please See: Herbert v. Louisiana 272 U. S. 312, 316, 317, 71 L. Ed. 270, 273, 47 S. Ct. 103, 48 A. L. R. 1102.

Your petitioner respectfully contends that it was error for the court to over-rule his motion for a new trial in the

absence of your petitioner and to his knowledge without the presence of a court reporter, without hearing all of the movants evidence thereon or any record of such evidence as the movant had to offer in support of his recorded contention that the charge against him was derived from evidence as the movant had to offer in support of his recorded contention that the charge against him was derived from evidence from the officers themselves which acts by law are defined as "Compounding a Felony."

Your petitioner respectfully contends that it was in violation of the moral code of universal justice for the state throught its court, to proceed further against your petitioner until a full hearing on his motion was had and recorded.

Your petitioner respectfully contends that he was entitled to his appeal and that the acts of the states Officers and representatives in supressing and impounding your petitioners appeal documents, in order to deprive him of his timely appeal, constitutes a direct, recorded denial of the constitutional requirements of "Due process of Law." and a violation of your petitioners Constitutional rights to redress of his injuries by "Due process of Law, 18th article of the Kansas Bill of rights * * * Frank v. Mangum 237 U. S. 309, 335, 59 L. Ed. 969, 983, 35 S. Ct. 582; More v. Dempsey 216 U. S. 86, 90, 91, 67, L. Ed. 543, 545, 546, 43 S. Ct. 265. Your petitioner contends that after he had struggled for over 2 years to get his motion out of the trial court and up to the Supreme Court of Kansas the limit had expired for his appeal and that your petitioner brought up the violation of "Due process of Law," before the court in form of the Writ of Habeas Corpus which was denied without a hearing.

Your petitioner respectfully contends that the state deprived him of "Due process of Law," by not waiting and postponing trial to subpeona his witnesses which wholly deprived your petitioner of his opportunity to be assured a fair trial which met the requirements of "Due process of Law" Please See: Roller v. Holly 176 U. S. 398, 20 S. Ct. 414; Standard Oil Co. v. Missouri 224, U. S. 281; Scott v. McNeal, 154, U. S. 34 and Robb v. Connelly 111 U. S. 624, 637, 28. L. Ed. 542, 546, 4 S. Ct. 544.

[fol. 46] Your petitioner respectfully contends that the State of Kansas, by and through its duly authorized officers, agents and representatives is illegally holding your peti-

tioner to involuntary servitude and depriving him of his liberty upon pretense that your petitioner was duly convicted by a fair and impartial trial, of the commission of a crime whereas the record plainly shows that his conviction was contrived through the pretense of a trial which in truth was but used as a means of depriving your petitioner of his liberty through a deliberate deception of the court and jury by the presentation of false, unfounded, prejudicial inciting allegations of circumstancial evidence against your petitioner while willfully concealing the true pertinant evidence in the premises and unlawfully supressing the testimony of the material witness to the crime charge which shows the innocence of your petitioner.

Very respectfully submitted, C. H. Cochran, Petitioner, Pro Se:

[fol. 47] IN SUPREME COURT OF KANSAS

No. 35156

C. H. COCHRAN, Petitioner,

vs.

MILTON F. AMRINE, Warden Kansas State Penitentiary

MOTION TO SUSTAIN PETITION—Filed April 14, 1941

Comes now your petitioner in the above entitled cause and moves the court to Sustain petition for the Writ of Habeas Corpus, and restore your petitioner to his lawful liberty for the following reasons, viz:

I

The records will show that the petition of the above mentioned cause has and was filed in that court and that the State of Kansas nd the Respondent has had reasonable time to show cause why the petitioner should not be released.

II

The Supreme Courts docket will definitely show that said cause was set for hearing on the 10th day of April, 1941. And that the respondent has not ask or moved for any delay,

nor has the petitioner been informed of any such postponement of the "hearing."

III

The petitioner contends that he should have his liberty, because of default of Respondents appearance to defend the action and that the court has prejudicially denied the petitioner his timely and lawful appearance to defend said action and take judicial recognization and make judicial inquiry into the acts of the Respondent and court.

IV

The petitioner contends that his defense is and has been continuously denied by the court and further contends that the Arbitrary exercise of judicial examination is unconstitutional and such delays are vital to the petitioner and his cause,

[fol. 48] And that the petitioner is intitled to be present at all judicial discussions of the above mentioned cause, all of which has been denied the attorney of the petitioner and that such actions are prejudicial, onesided, injurious and biased.

V

That the issues raised in petition are true and pertinant facts and that the delay would not prove or establish evidence or proof to benefit the Respondent, as the facts abstracted are fully supported by evidence and affidavits and that the Respondent has intentionally, purposely and designedly delayed the hearin that said records will not reveal pertinant facts and that it will prolong the unlawful imprisonment of the petitioner.

Therefore: your petitioner moves and prays the Supreme Court to Sustain the petition and discharge the petitioner from custody of the Respondent, Milton F. Amrine, Warden of the Kansas State Penitentiary and restore your petitioner to his lawful Liberty.

Respectfully Submitted, C. H. Cochran, Movant,
Pro Se:

[File endorsement omitted.]

[fol. 49] IN SUPREME COURT OF KANSAS

No. 35,156

In the Matter of C. H. COCHRAN for a Writ of Habeas Corpus, Petitioner,

v.

MILTON F. AMRINE, Warden of the Kansas State Penitentiary, Respondent

RETURN OF MILTON F. AMRINE, WARDEN OF THE KANSAS STATE PENITENTIARY—Filed April 17, 1941

Comes now Milton F. Amrine, Warden of the Kansas State Penitentiary, the respondent herein, and for his return to the writ of habeas corpus heretofore issued, in obedience to the writ of habeas corpus hereto annexed, the said petitioner, C. H. Cochran, was committed to the respondent's custody, was and is now detained by the respondent under and by virtue of a judgment, sentence and commitment duly entered and issued out of the District Court of Sumner County, Kansas, a true copy of which is attached hereto and made a part hereof; that said process and summons was duly issued and is a part of the final judgment and sentence of said District Court of Sumner County, Kansas, and was duly and lawfully made and issued from and out of said District Court, which then was and still is a court of competent jurisdiction.

M. F. Amrine, Warden of the Kansas State Penitentiary.

Subscribed and sworn to before me, a Notary Public in and for Leavenworth County, Kansas, this 16th day of April, 1941. R. D. Payne, Notary Public. (Seal.) My commission expires 4-18-41.

[fol. 50] [File endorsement omitted.]

[fol. 51] IN SUPREME COURT OF KANSAS

No. 35156

In the Matter of C. H. COCHRANE for a Writ of Habeas Corpus, Petitioner and Appellant,

vs.

MILTON F. AMRINE, Warden of the Kansas State Penitentiary, Respondent and Appellee

ABSTRACT AND BRIEF OF RESPONDENT AND APPELLEE—Filed April 17, 1941

[fol. 52] ABSTRACT

Charles H. Cochran, the Petitioner and appellant herein, was convicted of forgery in the second degree in the District Court of Sumner County, Kansas on May 15, 1933.

Prior to this conviction of a felony, Cochran was taken into custody by the Sheriff of Harper County, Kansas and delivered to the officers of Sumner County, Kansas and there incarcerated in jail, pending his trial in the District Court of Sumner County, Kansas. While confined to the Harper County jail, Cochran attempted to escape therefrom. At his preliminary hearing on the 20th day of April, 1933, in a justice of the peace court, Cochran was represented by an attorney, Mr. Harry B. Davis of Anthony, Kansas, and at the trial in the District Court of Sumner County, Kansas, he was also represented by Mr. Davis.

Evidence was offered at the time of sentence that Cochran had been convicted of a prior felony in the District Court of Sumner County, Kansas, and had served a term in the Kansas State Penitentiary at Lansing and further that said Cochran had committed a felony in the state of Oklahoma and had been sentenced from Tulsa County District Court to a term in the Oklahoma Reformatory at Granite, Oklahoma. This being Cochran's third conviction for a felony, he was sentenced by the court to a term for life in the Kansas State Penitentiary at Lansing as an habitual crimi-
[fol. 53] nal.

Following sentence on May 15, 1933, in the District Court of Sumner County, Kansas Cochran filed a motion in arrest of judgment, which was subsequently denied. At that time he was present and represented by his attorney, Mr. Davis.

Likewise a motion for a new trial was overruled with Cochran's counsel present and representing him.

Attached to and made a part of this abstract are certified copies obtained from C. W. Wilson, Record Clerk of the Kansas State Penitentiary at Lansing, Kansas, of the criminal action, sentence, information, journal entry, copy of a letter from Mr. John A. Potucek, County Attorney of Sumner County, Kansas, addressed to Mr. Kirk Prather, then Warden of the Kansas State Penitentiary, giving a brief history of Cochran's record; also attached hereto and made a part of this abstract is an affidavit of Mr. John A. Potucek, who was County Attorney of Sumner County, Kansas at the time of the trial and conviction of said Cochran, and who at the present time is the incumbent of that office; also attached hereto and made a part of this abstract is a copy of the abstract of the petitioner and appellant's finger-print record on file in the United States Bureau of Investigation.

Applications for writs of habeas corpus have been filed in the United States District Court for the District of Kansas by the petitioner and appellant herein. One was dismissed in June, 1936 and the other in March, 1941.

This Honorable Court considered an application for a writ of habeas corpus filed by this petitioner and appellant in 1936. It is reported in the Kansas Reports, Cochran v. Simpson, 143 Kan. 273.

[fol. 54] CERTIFICATE OF RECORD CLERK

I, C. W. Wilson, Record Clerk of the Kansas State Penitentiary, situated at Lansing, in the above County and State, do hereby certify that I am the Record Clerk of the said Prison; that in my legal custody as such Record Clerk, are the original files of commitments, journal entries and information, which said files and records are required by the laws of said State to be kept by such Record Clerk; that the Criminal Action and Sentence, Information, Journal Entry and County Attorney's statement at time of conviction attached hereto are true copies of the original Criminal Action and Sentence, Information, Journal Entry and County Attorney's statement at time of conviction of C. H. Cochran #1 No. 3608, a convict heretofore committed to

said prison, which said originals are now on file and of record in the said files and records of my office; that I have compared each and all said copies with their respective originals in said files and records of my office, and each thereof contains and is a full, true and correct transcript and copy from its said original and from the whole thereof.

C. W. Wilson, Record Clerk of the Kansas State Penitentiary.

Subscribed and sworn to before me this 25th day of March, A. D., 1941. R. D. Payne, Notary Public. My commission expires 4-18-41. (Seal.)

[fol. 55] COMMITMENT TO PENITENTIARY 489-2

Copy Furnished By Office of Kansas State Penitentiary.

Be it Remembered, That heretofore, to wit, on the 29th day of May, A. D. 1933, and at the May Term of the District Court, proceedings were had, in substance as follows, to wit:

Criminal Action Sentence

No. 2120

THE STATE OF KANSAS, Plaintiff,

vs.

C. H. COCHRAN, Defendant

JUDGMENT AND SENTENCE

Now, Came the said defendant, C. H. Cochran, in his own proper person, in open court, whereupon said defendant was informed by the court that he has been found guilty of forgery in the second degree as charged in the information and being inquired of by the Court if he had any legal cause to show why judgment should not be pronounced against him according to law, and still failing to show such cause, it is therefore sentenced and adjudged by the court that the said defendant, C. H. Cochran, be taken hence to the county jail of Sumner County, by the sheriff of said county; thence to the penitentiary of the State of Kansas, and there be confined at hard labor until discharged there-

from in the manner provided by law; his term of imprisonment, however, not to exceed in any event the period of his life nor to be less than — year —; said periods of time being respectively the maximum and minimum measures of punishment provided by law for offense to the commission of which the defendant has been guilty.

It is further considered and adjudged by the court, that the said defendant pay all costs in and about this suit, in this behalf expended, taxed at $—; and hereof let execution issue.

STATE OF KANSAS,
County of Sumner, ss:

I, Jessie Haverstock, Clerk of the District Court sitting in and for said County and State, do hereby certify that the above and foregoing is a true and correct copy, in substance, of the judgment and sentence in the above-entitled cause as the same now, in substance, appears of record in my office.

Witness my hand and the seal of said court, affixed at my office in the City of Wellington, this 29th day of May, A. D. 1933.

Signed: By Edith Cook, Deputy. Jessie Haverstock, Clerk.

[fol. 56] IN THE DISTRICT COURT IN AND FOR SAID COUNTY

No. 2120

STATE OF KANSAS,
Sumner County, ss:

THE STATE OF KANSAS, Plaintiff,

vs.

C. H. COCHRAN, Defendant

INFORMATION

STATE OF KANSAS,
Sumner County, ss:

I, the undersigned, John A. Potucek, County attorney of said County, in the name, by the authority and within two

years of the filing of the complaint herein, and on behalf of the State of Kansas, come now here, and give the Court to understand and be informed, that on or about the — day of —— A. D., 1932, in said County of Sumner, and State of Kansas, one C. H. Cochran did then and there unlawfully, willfully, and feloniously forge, counterfeit and falsely make, one certain check in words and figures, as follows, to-wit:

The First National Bank, in Harper

Harper, Kansas, 10-16-1932, Pay to the Order of Odorless Dry Cleaners $12.60, Twelve and 60/100 Dollars, Signed: A. J. Messinger.

Endorsed on Back: Odorless Cleaners, By, C. H. C.

Such check to be drawn upon the First National Bank of Harper, Kansas, a bank organized and incorporated under the laws of the United States of America.

Second Count

And for a second further and different count I, the undersigned, John A. Potucek, County Attorney of said County, in the name, by the authority and on behalf of the State of Kansas, come now here, and give the Court to understand and be informed, that on or about the 17th day of November, 1932, and within two years of the filing of the complaint herein, in said County of Sumner, and State of Kansas, one C. H. Cochran did then and there unlawfully, willfully, and feloniously sell and deliver to M. R. Evans, for a Valuable consideration, to-wit: goods, wares and merchandise, and lawful currency and money of the United States of America, of the total value of $12.60, one certain falsely made, forged and counterfeited check, which said check was and is in words and figures as follows, to-wit:

The First National Bank in Harper

Harper, Kansas, 10-16, 1932, Pay to the Order of Odorless Dry Cleaners, $12.60, Twelve and 60/100 Dollars, signed: A. J. Messinger.

Endorsed on Back: Odorless Cleaners, by C. H. C.;

Such check purporting to be drawn upon the First National Bank of Harper, Kansas, a bank incorporated under the laws of the United States of America; the said C. H.

Cochran knowing such check to be falsely made, forged and counterfeited, and delivering the same with the intent to have the same uttered and passed.

Contrary to the form of the statute in such case made and provided, and against the peace and dignity of the State of Kansas.

Signed: John A. Potucek, County Attorney.

CERTIFICATE OF COPY

STATE OF KANSAS,
Sumner County, ss:

I, Jessie Haverstock, Clerk of the District Court in the Twenty-fifth Judicial District of the State of Kansas, sitting for the County aforesaid, do hereby certify the above and foregoing to be a true, full and complete copy of Informa-
[fol. 57] tion in the within entitled case No. 2120 as the same remains on file in my office.

Witness my hand and the Seal of said Court, affixed at my office in Wellington, this 29th day of May, 1933.

Signed: Jessie Haverstock, Clerk. By Edith Cook, Deputy. (Seal.)

[fol. 58] STATE OF KANSAS,
Sumner County, ss:

I, John A. Potucek, being duly sworn, on oath do say that I am County Attorney of said Sumner County, in the State of Kansas, and that I am informed and verily believe that the allegations set forth in the within information are true. So help me God.

Signed: John A. Potucek.

Subscribed in my presence and sworn to before me by John A. Potucek, this 1st day of May A. D. 1933. Signed: Jessie Haverstock, Clerk of the District Court of Sumner County, Kansas. By Edith Cook, Deputy.

No. 2120

STATE OF KANSAS, Plaintiff

vs.

C. H. COCHRAN, Defendant

Witnesses for the State: M. R. Evans, Hubert Richards, Guy Neal, Lena Rush, H. C. Foster, Elmer Holt, John H. Gunn, Harold Sanner, Arch Hendon, Geo. Slathewe, J. C. Shearman, L. L. Brown.

INFORMATION—Filed May 1, 1933

Jessie Haverstock, Clerk of the District Court. By Edith Cook, Deputy. John A. Potucek, County Attorney. —— ——, Attorney for the State. —— ——, Attorney for the Defendant.

[fol. 59] IN THE DISTRICT COURT OF SUMNER COUNTY, KANSAS

No. 2120

STATE OF KANSAS, Plaintiff,

vs.

C. H. COCHRAN, Defendant

Journal Entry of Trial

And now on this 15th day of May, 1933, the same being one of the regular judicial days of the May 1933 term of this Court, this case comes on for hearing and for trial as per assignment.

The plaintiff appears by John A. Potucek, County Attorney, Sumner County, Kansas, and the defendant appears in person and by his counsel Harry B. Davis, Esq. of Anthony, Kansas.

The defendant waives arraignment and enters his plea of 'not guilty' to the commission of the offense of forgery in the second degree as charged in the first count of the Information and he enters his plea of 'not guilty' to the commission of the offense of forgery in the second degree, as charged in the second count of the Information.

A jury is duly and legally empanelled and sworn to try the case. The opening statement is made, the plaintiff's witnesses are sworn and testify and evidence introduced and the State rests. Defendant's opening statement is made, [fol. 60] evidence introduced, and the defendant rests. The jury is instructed in writing and argument of counsel made and the jury retires in charge of the sworn bailiff to deliberate.

Whereupon, later on said date the jury reports in open Court that they have agreed upon a verdict, which verdict is handed to the Court and in turn read by the Clerk, the same being in words and figures as follows, to-wit:

IN THE DISTRICT COURT OF SUMNER COUNTY, KANSAS

No. 2120

THE STATE OF KANSAS, Plaintiff,

vs.

C. H. COCHRAN, Defendant

VERDICT

We, the jury empanelled and sworn in the above entitled cause, do, upon our oaths, find the defendant, C. H. Cochran, not guilty of forgery in the second degree as charged in the first count of the Information.

We, the jury empanelled and sworn in the above entitled cause, do, upon our oaths, find the defendant, C. H. Cochran, guilty of forgery in the second degree as charged in the second count of the Information.

Louis Larson, Foreman.

Whereupon, the jury is discharged and the case is continued for the matter of passing sentence.

ORDER OVERRULING MOTION FOR NEW TRIAL

And now on the 20th day of May, 1933, this case comes on for further hearing upon the motion for a new trial as filed by the defendant and the Court, after hearing said motion and argument of counsel, finds that the same should [fol. 61] be and the same is hereby overruled.

ORDER OVERRULING MOTION IN ARREST OF JUDGMENT

Whereupon, the matter comes on for further hearing upon the "Motion In Arrest of Judgment" as filed by the defendant, and after hearing said Motion and argument of counsel, the Court finds that said Motion should be and the same is hereby overruled.

Whereupon, the Court advises the defendant as to the verdict and the matter of passing sentence upon the defendant as an habitual criminal is continued.

JUDGMENT AND SENTENCE

And now on this 29th day of May, 1933, the same being one of the regular judicial days of this Court, this case comes on for hearing upon the matter of passing sentence against the defendant upon the findings of the jury.

The plaintiff appears by John A. Potucek, County Attorney, Sumner County, Kansas, and the defendant appears in person and by his counsel, Harry B. Davis, Esq. The plaintiff introduces further evidence and rests and the Court after hearing the evidence and being well and truly advised in the premises, finds that the defendant has heretofore been convicted of a felony in the District Court of Sumner County, Kansas, and has served a term in the Kansas State Penitentiary, Lansing, Kansas, and the defendant, C. H. Cochran, has committed a felony in the State of Oklahoma, and has served a term in the Oklahoma Reformatory at Granite, Oklahoma, being sentenced from Tulsa County District Court, for the offense of stealing an automobile, and the Court finds that the defendant, C. H. Cochran, has been convicted and sentenced for two other, separate and distinct felonies, and that the conviction in this case is a third conviction of the defendant, C. H. Cochran for a felony, and that the defendant is an habitual criminal.

Whereupon, inquiry is made of the defendant if he has any legal cause to show why judgment and sentence should not be pronounced against him upon the findings of the jury, and there appearing no legal cause,

[fol. 62] It Is Therefore Considered, Ordered and Adjudged that the defendant, C. H. Cochran, be committed to the Kansas State Penitentiary at Lansing, Kansas, to serve a term therein at hard labor, during his life, for the commission of the offense of forgery in the second degree

as charged in the second count of the Information, and the defendant having been convicted for a third time, of felony, and he being an habitual criminal, and that he pay the costs of the prosecution as taxed by the Clerk of the Court.

It is further ordered that the Sheriff transport the defendant, C. H. Cochran to said Institution aforesaid at his earliest convenience.

(Signed: Wendell Ready, District Judge.

Signed: O. K. John A. Potucek, County Attorney.
Signed: O. K. Harry B. Davis, Attorney for Defendant.

CERTIFICATE OF COPY

STATE OF KANSAS,
Sumner County, ss:

I, Jessie Haverstock, Clerk of the District Court in the Twenty-fifth Judicial District of the State of Kansas, sitting for the County aforesaid, do hereby certify the above and foregoing to be a true, full and complete copy of *Journal Entry* in the within entitled case No. 2120 as the same remains *on file* in my office.

Witness my hand and the Seal of said Court, affixed at my office in Wellington, this 29th day of May, 1933.

Signed: Jessie Haverstock, Clerk. By Edith Cook, Deputy. (Seal.)

[fol. 63]

JOHN A. POTUCEK
County Attorney of Sumner County
Wellington, Kansas.

Phones: Court House 195. Downtown Office 7.
Clara Bauman, Secretary

May 31, 1933.

Mr. Kirk Prather, Warden, Kansas State Penitentiary, Lansing, Kansas.

In Re: State of Kansas vs. C. H. Cochran

DEAR SIR:

This and the accompanying papers will serve to introduce to you one C. H. Cochran, who was recently convicted by

a jury in our District Court, for the commission of the offense of forgery in the second degree, and he was sentenced to your Institution for life as an habitual criminal.

This party served at your Institution, beginning on or about September, 1928, for jail break, he having escaped from jail here while he was awaiting trial for committing the offense of disposing of mortgaged property.

For your information, I will state that this party has heretofore served a term in the Oklahoma Reformatory for auto theft, he has also served a term for burglary in the State prison at Stillwater, Minnesota, having served there sometime during 1917. It is my understanding that he also served a term at the State Reform School at Miles City, Montana, growing out of some fraudulent check deal, however, the party there was C. A. Cochran and I have not checked that information definitely.

There is a warrant out for this party also on a forgery charge in Barber County, Kansas.

I wish to state that this individual will do anything to obtain his freedom. He escaped from our jail, as heretofore stated, and tried to escape, just recently, from the Harper County Jail, and did escape from the Oklahoma Reformatory while he was incarcerated there. The Sheriff explains to me that he was trying to saw his way out of jail here within the last several days.

He is a 'jack of all trades' and was operating a cleaning and pressing plant in Harper, Kansas and at that time obtained possession of a trailer by false and fraudulent representations and skipped the country, taking his possessions with him, supposedly in this trailer, and was heard of, indirectly, in Montana, however, he was arrested in Arkansas, where he was living with a married woman formerly of Attica, Kansas, and at the time of his arrest he was engaged in the practice of medicine.

I would suggest that you keep this party under close supervision at all times, otherwise he will cause you trouble.

Yours very truly, Signed: John A. Potucek, County Attorney.

JAP/AW

[fol. 64] AFFIDAVIT OF JOHN A. POTUCEK

John A. Potucek, being duly sworn on oath, deposes and says:

That he is a duly licensed and practicing attorney at law in the City of Wellington, Kansas, and County Attorney of Sumner County, Kansas, and that he was County Attorney of Sumner County, during the year 1933, and directed the prosecution of one C. H. Cochran, who was charged and tried in the May 1933 Term of said District Court of Sumner County, Kansas, upon an Information, charging two counts of Forgery in the Second Degree.

Affiant further states that a Warrant was issued in the Justice Court of James H. Large, a Justice of the Peace in and for the City of Wellington Township, in Sumner County, Kansas, on December 8, 1932, charging the said C. H. Cochran with the commission of the offense of Forgery in the Second Degree, in two counts, a copy of said Warrant being attached to this Affidavit.

That, pursuant to said Warrant, the defendant, C. H. Cochran, was taken into the custody of the officers of Sumner County, Kansas, having been delivered to said officers by the Sheriff of Harper County, Kansas, where the said C. H. Cochran had been incarcerated pending his trial on a charge of Forgery in the District Court of Harper County, Kansas, and from which jail, the said defendant attempted to escape while awaiting trial.

That said defendant was arraigned in the Justice Court of A. L. Chase, successor in office to James H. Large, on April 12, 1933, and the preliminary hearing set for April 20, 1933, at ten o'clock A. M., and bond fixed for the appearance of the defendant, in the sum of One Thousand Dollars ($1,000.00), and in default of bond, the defendant was committed to the *jail* of Sumner County, Kansas. That a [fol. 65] preliminary hearing was duly had on the 20th day of April, 1933, in the Justice Court of A. L. Chase, and affiant appearing as County Attorney, and the defendant, C. H. Cochran, appearing in person, and by his attorney, Harry B. Davis, of Anthony, Kansas. After the introduction of evidence, the Court found that the offense of Forgery, as charged in the First and Second Counts of the Complaint, had been committed, and that there was probable cause to believe that the defendant, C. H. Cochran, committed said offenses, and said defendant was bound over to

the District Court of Sumner County, Kansas, to answer said charges, and bond for Defendant's appearance at the first day of the next term of said District Court of Sumner County, Kansas, was fixed in the sum of One Thousand Dollars ($1,000.00), and in default of said bond, the defendant to be committed to the jail of Sumner County, Kansas.

Affiant further states that thereafter, pursuant to assignment, the case of the State of Kansas vs. C. H. Cochran, came on for hearing and for trial, on the 15th day of May, 1933; the affiant appearing as County Attorney of Sumner County, Kansas, and the defendant appearing in person and by his counsel, Harry B. Davis of Anthony, Kansas. That a certified copy of said Journal Entry, which truly and correctly recites the proceedings and the manner in which said trial was conducted, is attached hereto and made a part hereof.

The affiant f rther states that he has read a copy of the Application for The Writ of Habeas Corpus, filed on behalf of the said C. H. Cochran, in the United States District Court for the District of Kansas, at Topeka, Kansas, together with petitioner's Brief and Authorities, Preface and Petitioner's Statement of Facts. Affiant states that the said allegations relative to the misconduct on the part of the Honorable Wendell Ready, Judge of the District Court of Sumner County, Kansas, are untrue, and that likewise the statements alleging misconduct on the part of the County [fol. 66] Attorney, and in the matter of improper argument and unlawful selection of a jury, are untrue. Affiant states that, as a matter of fact, in the closing argument, the County Attorney, who was this affiant, stated to the jury, that it was incumbent upon the State of Kansas to prove each and every elemgnt of the crimes charged, and that it was likewise the duty of the State of Kansas to prove that the offenses were committed in Sumner County, Kansas. That the evidence did not disclose the actual manual forgery of the check in question, to have been committed in Sumner County, Kansas, and that the jury should therefore find the defendant "not guilty" on said First Count of the Information. In affiant's comment to the jury, he mentioned that the evidence disclosed that the check was in the handwriting of the defendant, as was the indorsement thereon, and if the jury believed that evidence to be true, then the defendant knew that the check was a forged check.' That

there was testimony that the defendant passed the check to the complaining witness for a valuable consideration, and if the jury believed such evidence and believed the other evidence introduced by the State, then that they should properly find him guilty of the commission of the offense as charged in the Second Count of the Information.

Affiant further states that the jury did find the defendant 'not guilty' of the commission of the offense in the First Count, and 'guilty' upon the Second Count, all as shown by the copy of the Journal Entry attached hereto.

Affiant further states that the defendant was present at all times during the trial, except that he was not present with the jury during their deliberations, and that he was present within the Court Room and represented by his attorney, at the time the Motion for a New Trial and Motion in Arrest of Judgment, were argued and heard and overruled by the Court, all as appears in the Journal Entry [fol. 67] hereinabove mentioned and referred to, and full faith and credit should be given herein to the official acts of the District Court of Sumner County, Kansas.

John A. Potucek, Affiant.

Subscribed and sworn to before me this 8th day of January, 1941. Alpha Ate, Notary Public.

My Commission expires on the 22nd day of February, 1943.

[fol. 68] WARRANT

STATE OF KANSAS,
Sumner County, ss:

The State of Kansas, to the Sheriff or any Constable in Sumner County.

Whereas, complaint in writing, under oath, has been made to me, and it appearing that there are reasonable grounds for believing that on or about the and within two years of the filing of the complaint herein, 1932, in Sumner County, and State of Kansas one C. H. Cochran did then and there, Unlawfully, Feloniously forge, counterfeit and falsely make, one certain check in words and figures, as follows, to-wit:

The First National Bank, in Harper

Harper, Kansas, 10-16-1932, Pay to the Order of Odorless Dry Cleaners, Endorsed on Back: Odorless Cleaners, By,

C. H. C.; Such check to be drawn upon the First National Bank of Harper, Kansas, a bank organized and incorporated under the laws of the United States of America.

Second Count

And M. R. Evans, being duly sworn on oath, deposes and says for a second, further and different count, that on or about the 17th day of November, 1932, in Sumner County, Kansas, one C. H. Cochran, did then and there unlawfully, feloniously sell and deliver to M. R. Evans, for a valuable consideration, to-wit: goods, wares and merchandise, and lawful currency and money of the United States of America, of the total value of $12.60, one certain falsely made, forged and counterfeited check, which said check was and is in words and figures as follows, to-wit:

The First National Bank in Harper

Harper, Kansas, 10-16, 1932, Pay to the Order of Odorless Dry Cleaners, $12.60, Twelve and 60/100 Dollars, signed: A. J. Messinger. Endorsed on Back: Odorless Cleaners, by C. H. C:

Such check purporting to be drawn upon the First National Bank of Harper, Kansas, a bank incorporated under the laws of the United States of America; and the said C. H. Cochran knowing such check to be falsely made, forged and counterfeited, and delivering the same, with the intent to have the same uttered and passed.

All contrary to the form of the Statutes in such cases made and provided, and against the Peace and Dignity of the State of Kansas.

[fol. 69] You are therefore Commanded, forthwith, to arrest said C. H. Cochran and bring him before me, at my office in said County, to be dealt with according to law; and then and there return this writ.

Witness my hand, at my office in city of Wellington, in said County, this 8th day of December 1932. James H. Large, Justice of the Peace.

[fol. 70] (Copy)

U. S. Bureau of Investigation—Department of Justice—
Washington, D. C.

June 9, 1933.

John Edgar Hoover, Director.

Warden, State Penitentiary, Lansing, Kansas.

Dear Sir:

Referring to your print received June 7, 1933, regarding C. H. Cochran, #3608, the following is an abstract of subject's fingerprint record on file in the United States Bureau of Investigation:

Subject as Chas. H. Cochran, #5672, received State Prison, Stillwater, Minn., Oct. 13, 1917, from Aitkin County, crime burglary 3rd degree, sentence indeterminate.

As Charles H. Cochran, #1787, arrested PD, Tulsa, Okla., Dec. 1, 1920, charge grand larceny; as C. H. Cochran, #2805, received State Reformatory, Granite, Okla., Dec. 28, 1920, from Tulsa County, crime stealing an automobile, sentence 5 years.

As Charles H. Cochran, #3145, arrested PD, Oklahoma City, Okla., Nov. 18, 1925, charge investigation, City Jail.

As Charles Harper Cochrane, #4394-D-5, arrested PD, Wichita, Kansas, July 5, 1928, charge vagrancy and investigation—bad check, disposition not given.

As C. H. Cochrane, #605, received State Prison, Lansing, Kansas, Sept. 18, 1928, from Sumner County, crime breaking jail (Habitual) sentence 2 to 4 years.

Refer to File #21358.

As Ch. H. Cochran, #—, arrested SO, Anthony, Kansas, Feb. 15, 1933, charge forgery and theft, dismissed—immediately arrested by the Authorities of Sumner County on a charge of forgery; as C. H. Cochran, #—, arrested SO, Wellington, Kansas, April 12, 1933, charge bad checks—forged; as C. H. Cochran, #1, #3608, received State Penitentiary, Lansing, Kansas, May 31, 1933, from Sumner County, crime forgery 2nd degree (habitual), sentence life.

Very truly yours, J. E. Hoover, Director.

As C. H. Cochran, #1205, arrested PD Butte, Montana, Jan. 2, 1919, charge forgery, disposition not given.

Copy to Attorney General's office, Topeka, Kansas.
SO, Wellington, Kansas.

S.O. Anthony, Kansas.
PD, Wichita, Kansas.
PD, Oklahoma City, Okla.
St. Ref., Granite, Okla.
PD, Tulsa, Okla.
PD, Butte, Montana.
SP, Stillwater, Minn.

[fol. 71] BRIEF

Generally speaking, certified copies of the criminal action, sentence, information, journal entry and other documents which are a part of the record, cover the points which the petitioner and appellant seeks to raise in his application and on appeal.

It is obvious from a scrutiny of the various applications he has filed, that there has been a total lack of consistency in regard to the grounds on which he seeks his release from the Kansas State Penitentiary. This is apparent in the pleadings filed in the intsant case.

The most obvious one which is directed to the attention of this Court, and one which he stresses in this case, is that certain officers or employees of the Kansas State Penitentiary intercepted certain correspondence or denied him the privilege of mailing such correspondence, which was in the nature of an appeal directed to this Court. This transpired, according to his own statements, from 1933 and prior to October, 1935.

In October, 1935, this petitioner and appellant filed an application for a writ of habeas corpus with this Court, which was denied in January, 1936, Cochran v. Simpson, supra. He never alluded to this important point or made issue thereof on this first application. Now, some years later, he presses it as a ground for his release through habeas corpus. He has offered no proof or supporting evidence that this charge is true, only his own statements of something that occurred at the State Penitentiary years ago, upon which he himself is not clear.

Since the time when he was sent to the State Penitentiary in 1933, three administrations have had charge of that institution. They deal with thousands of prisoners over a [fol. 72] period of years, and now one inmate seeking his release from the State Penitentiary in the nature of a habeas corpus proceeding, failing to raise an issue which he alleges

transpired months prior to an earlier application, comes into this Court and makes ambiguous and unsubstantiated charges against officers and employees of the State Penitentiary.

Another outstanding weakness in the petitioner and appellant's contention for the granting of the writ is that he was represented throughout the proceedings in the Sumner County District Court by reputable counsel, and the record shows that no attempt was made immediately following conviction to appeal from the sentence and conviction of the court.

This petitioner and appellant has charged the courts and other law enforcing officers with misconduct and bad faith. He has directed letters to members of the Supreme Court, to the Attorney General's office, to certain federal officers and others in the interest of his release from the State Penitentiary. In 1937 the Attorney General's office made an informal investigation of his complaints and found them without foundation.

This petitioner and appellant was charged in an information with the commission of a felony. He was tried before a jury, was represented by able counsel, convicted and sentenced to the State Penitentiary under the laws of the state of Kansas. The record in the case speaks for itself.

Attention also must be directed to the affidavits which he submits to this Court: One from another inmate, Frank Boaz, who too has filed several applications in both the [fol. 73] United States District Court and the Kansas Supreme Court, and which have been either denied or dismissed; also an affidavit of another convict confined in the Kansas State Penitentiary, C. C. Crebs, who now has pending before this Court an application for a writ of habeas corpus.

One other matter which the respondent wishes to direct to the attention of the Court is that in the "abstract" of the appellant, in the appeal from the District Court of Leavenworth County, Kansas, he sets out material and allegations which are not substantiated by the record. He also makes certain statements pertaining to the record which are gross misrepresentations and which are not supported by any competent evidence.

Although in its entirety the so-called "abstract" is the presentation by the petitioner and appellant of his side of

the case, its contents are not to be found in the record nor substantiated by affidavits or other evidence. He likewise charges that a previous Attorney General of the State of Kansas and other public officials have set up a "perpetual blockade to prevent the timely appeal and filing of proper procedures;" also that the "members of the Supreme Court of Kansas have referred your petitioner to the parties who set up the perpetual blockade that prevented your petitioner's timely appeal in filing of proper procedures," all of which is not sustained and are erroneous assumptions.

The said petitioner and appellant herein, C. H. Cochran, having been committed to the custody of your respondent, was and now is detained by him under and by virtue of a judgment, sentence and commitment duly entered and issued out of the District Court of Sumner County, Kansas.

[fol. 74] Wherefore, respondent prays that the application and appeal of the petitioner and appellant be denied and dismissed.

Respectfully submitted, Jay S. Parker, Attorney General; Jay Kyle, Assistant Attorney General, Attorneys for Respondent.

[fol. 75] [File endorsement omitted.]

[fol. 76] IN SUPREME COURT OF KANSAS

No. 35156

In the Matter of C. H. COCHRAN, for the Writ of Habeas Corpus, Petitioner,

vs.

MILTON F. AMRINE, Warden, Kansas State Penitentiary, Respondent and Appellee

PETITIONER'S ANSWER TO RESPONDENT'S BRIEF AND ABSTRACT —Filed April 23, 1941

Comes now your petitioner and appellant in answer to the Respondents brief and abstract.

Your petitioner alleges that the petitioners brief and Abstract are true in every detail, and that t' petitioner

can prove and substantiate each and every statement set forth within the said petitioners brief and abstract.

The petitioner alleges that the respondents brief and abstract is prejudicial and untrue.

Petitioner further alleges that respondent is guilty of compounding a felony, and wilfully and deliberately foreclosed lawful process by the acts of the State Authorized agents.

Petitioner is able to prove that for over the peripd 7 years, he had been denied lawful redress, counsel and timely appeal.

Petitioner can show by records that he was forced to "injoin" Representative from such acts now on file in case #421 H. C. United States District Court, Topeka, Kansas.

Respectfully Submitted, C. H. Cochran, Petitioner and Appellant Pro; Se.

[File endorsement omitted.]

[fol. 77] IN SUPREME COURT OF KANSAS

No. 35,156

In re C. H. COCHRAN, Petitioner for a Writ of Habeas Corpus, Appellant,

v.

MILT F. AMBINE, etc., Appellee

MINUTE ENTRY OF SUBMISSION—May 5, 1941

This cause comes on for hearing upon the appeal papers and the abstract of record from the district court of Leavenworth County and thereupon, said cause is submitted upon the briefs of both parties and taken under advisement by the court.

[fol. 78] IN SUPREME COURT OF KANSAS

Re: No. 35156

In the Matter of C. H. COCHRAN, for the Writ of Habeas Corpus, Petitioner,

vs.

MILTON F. AMRINE, Warden, Kansas State Penitentiary, Respondent

PETITIONERS OBJECTIONS TO PROCEDURE OF COURT—Filed May 10, 1941

Comes now, your petitioner to the above entitled cause, and duly objects to the courts order that cause be brought on for decision by briefs submitted by both parties for the following reasons, Viz:

I

The petitioner shown only a part of such evidence to shew all the issues involved.

II

That the court took unlawful advantage of the petitioner by its own court order, in misleading the petitioner to believe that he would be permitted right of his defense and witnesses to show pertinant violations of his right all of which he he never notified of deniel of "Motion for Appearance."

III

The petitioner objects to this "Blind" Arbitrary and discretionary method, in that the petitioner "Charges" that during the time petition was filed in the court, The respondent "Did" Confiscate, seize and impounded unlawfully, pleading evidence, affidavits and other papers addressed to the court, this act should have been permitted as a fact in the court to show such irregularities as has been conteniously exercised unlawfully.

IV

The petitioner objects to the partial and prejudicial acts of the court, in that the courts denial of witnesses to

show and prove pertinant issues in petition: The courts denial of defense by arbitrary conclusions of facts and not by testimony pertinant and material in establishing a fact.

V

The courts attitude towards the petitioner "motion for appearance", and a "Writ of habeas corpus" directing the court commanding petitioners appearance.

VI

The petitioner objects to the procedure of the court on grounds that it failed to conform with the constitution, suspends Habeas corpus, denies the indigent Citizen accessibility to the Court, lawful right of defense and judical inquiry.

Therefore: Your petitioner and appellan, objects to each and every act of the court in the foregoing reasons, to which your petitioner excepts.

Respectfully Submitted, C. H. Cochran, Petitioner (Pro Se).

[File endorsement omitted.]

[fol. 79] IN SUPREME COURT OF KANSAS

No. 35,156

In the Matter of C. H. COCHRAN for a Writ of Habeas Corpus, Petitioner and Appellant,

v.

MILTON F. AMRINE, Warden of the Kansas State Penitentiary, Respondent and Appellee

JUDGMENT—June 7, 1941

This cause comes on for decision and thereupon, after due consideration by the court, it is ordered and adjudged that the Writ of Habeas Corpus prayed for herein be denied.

It is further ordered that this appeal be dismissed at the cost of the petitioner ~~and appellant~~, taxed at $—, and hereof let execution issue.

Harvey, J., delivered the opinion of the court, all the justices concurring.

[fol. 80] IN SUPREME COURT OF KANSAS

No. 35,156

In the Matter of C. H. COCHRAN for a Writ of Habeas Corpus, Petitioner and Appellant,

v.

MILTON F. AMRINE, Warden of the Kansas State Penitentiary, Respondent and Appellee

Syllabus By the Court

1. While courts are liberal in entertaining petitions in habeas corpus proceedings, questions once fully considered and determingd, in the absence of changed circumstances, should be regarded as settled.

3. The records of courts are not set aside upon the unsupported statements of a defeated litigant.

Original proceeding in habeas corpus. Opinion filed June 7, 1941. Writ denied.

C. H. Cochran, Pro se.

Jay S. Parker, Attorney General, and Jay Kyle, Assistant Attorney General, for the respondent.

OPINION—Filed June 7, 1941

[fol. 81] The opinion of the court was delivered by

HARVEY, J.:

This is an original proceeding in habeas corpus. The petitioner alleges he is an inmate of our state penitentiary, where he is being held under a commitment issued May 29, 1933, out of the district court of Sumner county, authorizing his imprisonment for life, and that the commitment is void for the following reasons: The record shows (1) jurisdiction of the court to issue the commitment "was procured thru the reckless contrivance in the pretense of a trial which in and by itself, deprived your petitioner of every right secured to him by the State and Federal Con-

stitution and precluded * * * 'Due Process of Law.'" (2) That the court went beyond the bounds of judicial discretion in overruling his motion without a hearing. (3) That the duly authorized officers unlawfully suppressed his appeal documents and deprived him of his lawful rights of appeal. (4) That after his imprisonment the then warden and other officers of the prison suppressed and refused to permit him to mail documents pertaining to an appeal and to habeas corpus. That the records will show (1) that he has consistently been deprived of due process of law by the courts and the officers and agents of the state; (2) that his previous petitions have been dismissed by the courts of the state, without recourse to the record, upon the unfounded assumption the record shows his conviction by an orderly trial within the requirements of due process of law; and (3) that the officers and agents of the state are exercising unlawful authority over your petitioner, obtained by methods contrary to due process of law.

All these allegations are made in the most general terms, void of any specifically alleged, controvertible facts; yet, [fol. 82] in order that petitioner might not be deprived of any of his rights, we waived our rules respecting a deposit for costs and the printing of abstract and brief, allowed the petition to be filed, and directed respondent to file a return. Respondent has prepared and filed his return which includes pertinent records of the trial, and a copy thereof was served upon the petitioner, who now complains that the records have been brought before the court; also, briefs have been filed by both parties.

Except in one particular, later to be noted, the record shows none of the facts alleged by the petitioner. On the contrary it shows that on December 2, 1932, a complaint in writing was filed before a justice of the peace of Sumner county, charging defendant in one count with the forgery of a described check, and in a separate count with the uttering of the check in Sumner county. A warrant issued on this complaint was delivered to the sheriff, who on April 12, 1933, arrested the petitioner in Harper county and brought him into Sumner county. On the 20th day of April, 1933, a preliminary examination was held before the justice of the peace, at which the state was represented by the county attorney and the defendant appeared in person and by his attorney, apparently one chosen and employed by him. As a result of that hearing he was bound over for trial to the

district court. Thereafter an information was duly filed charging the same offenses charged in the warrant. The case came regularly on for trial in the district court on May 15, 1933. Defendant was present in court and represented by counsel throughout the trial. Being unable to prove the forgery was committed in Sumner county, the county attorney in effect withdrew that count from the jury. A verdict of guilty was rendered upon the second [fol. 83] count. On May 20th defendant's motion for a new trial and his motion in arrest of judgment came on to be heard. These were considered and overruled. On May 29, 1933, there was a hearing upon the sentence. Upon evidence produced at that time by the county attorney the court found defendant previously had been convicted of two other separate and distinct felonies, and under the statute (G. S. 1935, 21-107a) he was sentenced to life imprisonment.

There is nothing in the record to indicate that the petitioner attempted to appeal his case to the supreme court. There is nothing in the record of the proceedings in the court below to indicate any irregularity in the petitioner's trial and conviction, and certainly nothing to indicate that his commitment was void for any reason.

Soon after the petitioner was confined in the penitentiary he made some effort to file a habeas corpus petition. Under rules then prevailing at the penitentiary these were not permitted to be sent out, and this much of the allegations of the petition in this case has some basis. These rules did not prevail long, however, and in October, 1935, he filed a petition for habeas corpus in this court. That was duly considered and a carefully prepared opinion was filed denying the petition. (Cochran v. Simpson, 143 Kan. 273, 53 P. 2d 502.) Some of the questions sought to be raised in this proceeding were presented to the court at that time. All of them might have been and should have been presented in that proceeding. While a court should be liberal in entertaining habeas corpus proceedings, there is no reason to reconsider the same questions repeatedly.

[fol. 84] In addition to the cases in this court the petitioner has filed in the federal court two petitions for habeas corpus, each of which was dismissed by the court because it failed to present a substantial federal question. Also he has had one or more cases in the district court of Leavenworth county, where the same result was reached. We entertain this case only because of plaintiff's allegations respecting

the records in the trial court. No evidence has been offered to support those allegations other than the bare statement of the petitioner. The records of courts are not set aside upon the unsupported statements of a defeated litigant.

The writ prayed for is denied.

Filed under the same docket number of this proceeding is a notice of appeal from the judgment of the district court of Leavenworth county rendered December 11, 1940, and a copy of a journal entry which recites a finding of the court that the petition for habeas corpus then being considered does not state facts sufficient to warrant the issuing of the writ. Nothing further is filed respecting that appeal. The petition ruled upon by the district court is not before us. The appeal is therefore dismissed.

[fol. 85] IN SUPREME COURT OF KANSAS

In Re: 35,156

In the Matter of C. H. COCHRAN for the Writ of Habeas Corpus, Petitioner,

vs.

MILTON F. AMRINE, Warden Kansas State Penitentiary, Respondent

MOTION FOR REHEARING—Filed June 27, 1941

Comes now, C. H. Cochran your petitioner, and moves the above styled Court to hear the above mentioned cause, which was reviewed on brief and abstract over the objection of petitioner by order of the Court, and your petitioner comes now and moves the court to hear the said cause for the following reasons; to-Wit:

I

The Supreme court denied the petitioner the right to a judicial inquiry held as the only admissible procedure in Habeas Corpus.

II

The petitioner charges that he has proof that affidavits and records were removed from petition or application, by

malicious intent to withhold evidence from the court, after said petition or application had been filed in the Court.

III

The petitioner can show by evidence and testimony that pleadings and motions were illegally, *feloneously confiscated, impounded* and never filed, and that the petitioner notified the court clerk that said motions, evidence and pleading were purposely withheld from the court and denied the petitioner the right to enter his lawful defense.

IV

The petitioner contends and shows that the procedure of the court has prejudicially proceded in a most unusual manner in denying witnesses, testimony, affidavits and other records to be introduced in his behalf and to discredit such records or purported records entered by the respondent.

V

The petitioner charges and can show by record that the Clerk of the Supreme Court of Kansas, *Knew* that such papers and pleading were stolen confiscated and unlawfully impounded and that the Clerk of Court ask to report the incident to the court, which if it was reported, the court failed to act and bring such records forth.

[fol. 86]

VI

The petitioner respectfully contends that the Respondent has since that the filing of the application; has entercepted each and every piece of evidence Submitted to the Court, and that proof can and will be offered to show each and every allegation set out therein.

Therefore: Your petitioner duly notifies that court of such actions, and moves the court to reopen and hear the cause that said cause shall have a fair hearing and produce evidence to show that the records have been unlawfully impared, unlawfully altered and striped of petitioner's evidence, and the petitioner's respectfully moves and prays that the Supreme Court of Kansas re-open the case and permit petitioner to enter evidence and such testimony of

witnesses to support his petition and application and enter his lawful defense.

Respectfully Submitted, C. H. Cochran, Movant. Pro Se.

[File endorsement omitted.]

[fol. 87] IN SUPREME COURT OF KANSAS

Re: 35,156

In the Matter of the Application of C. H. COCHRAN for the Writ of Habeas Corpus, Petitioner,

v.

MILTON F. AMRINE, Warden Kansas State Penitentiary, Respondent

MOTION FOR STAY OF JUDGMENT—Filed June 27, 1941

Comes now, your petitioner of the above entitled cause and moves for the stay of judgment of the above entitled cause; for the reasons set out as follows: (1) The petitioner was not given a hearing after the ruling of the United States Supreme Court and which was held to be the only admissible procedure in Habeas Corpus. (2) That the Respondent extracted from the petition or caused to be extracted evidence and affidavits Supporting petition, and confiscated pleadings, Motions and other papers addressed to the clerk of Supreme Court of Kansas. (3) That all Pleading and motions never reached the court or placed before the court, having direct bearing on the case. (4) Notification to the effect that case was not completed, in that Respondent feleoneously stole and "Impounded" evidence and pleadings, mailed to the clerk of the Supreme Court and filed. (5) That the right of Witnesses to support petition and other Subpoenas of records. (6) The rigt of defense was abusive, Misleading, and disadvantages to the petitioner eause. (7) That County attorneys affidavit has been disproved by pertinant evidence and that such affidavit was prejudicial and untrue.

The petitioner can show by record that such has been the case in his cause and therefore; Moves and prays for stay of Judgment in the above entitled cause.

Respectfully submitted, C. H. Cochran, Pro Se.

[File endorsement omitted.]

[fol. 88] IN SUPREME COURT OF KANSAS

Re: 35,156

In the Matter of C. H. COCHRAN for the Writ of Habeas Corpus, Petitioner,

vs.

MILTON F. AMRINE, Warden Kansas State Penitentiary, Respondent

MOTION TO SUBPOENA WITNESSES—Filed June 27, 1941

Comes now the petitioner of the above entitled cause and moves the court to Issue subpoena's and Summons into that court for testimony material in the defense of the petitioner, the following Witnesses.

Mrs. Emm L. Hinton, 604 No. 10th st., Kansas City, Kansas.
Mrs. Daisy Ried, 2528 No. 5th, Kansas City, Kansas.
Mr. J. Sharp, 437-Le Clide St., Wichita, Kansas.
Lacey M. Simpson, McPherson, Kansas.
E. M. Stubblefield, Brighton, Illinois.
Mrs. A. S. (Cochran) Heromine, Oklahoma City, Oklahoma.
Elmer Madsen, Anthony, Kansas.

Every party here-to-fore mentioned are material in support of petition.

Therefore: Your petitioner moves and urges that the Court issue such orders that said parties shall be present at the hearing.

Respectfully submitted, C. H. Cochran, Movant, Pro Se.

[File endorsement omitted.]

[fol. 89] AFFIDAVIT OF EMMA E. COCHRAN

I, Emma E. Cochran, being duly sworn states, on June 9, 1933, Kansas Prison Officials seized from me, C. H. Cochran's Appeal papers, refused to let me file them for him in the Supreme Court.

Emma E. Cochran, Affiant.

Subscribed and sworn to before me this 11th day of October, 1934. Byron E. Taylor, Notary Public. My commission expires Dec. 7, 1937. (Seal.)

AFFIDAVIT OF EMMA L. HINTON

STATE OF KANSAS,
County of Wyandotte, ss:

I, Emma L. Hinton, being of lawful age and duly sworn, deposes and states that on or about June 1, 1934, C. H. Cochran, an inmate of the Kansas State prison, by written consent gave me power of attorney to act in his behalf in the Supreme Court of Kansas to file and execute all transactions in that court. On June 15th, Mr. E. M. Stubblefield, Deputy Warden, called me into his office and forbade me to take out any more papers belonging to C. H. Cochran. I therefore could do nothing further. After Mr. Kirk Prather came in as Warden I was allowed to take the papers for keeping and they still remain in my hands.

(Signed) Emma L. Hinton, Affiant.

Subscribed and sworn to before me this 28th day of August, A. D. 1941. (Signed) El Freda McCullough, Notary Public. My commission expires Sept. 4, 1940. (Seal.)

AFFIDAVIT OF C. SCUDDER

STATE OF KANSAS,
County of Leavenworth, ss:

I, Charly Scudder, being duly sworn, make the following statement that I did on or about the 16th day of October, 1933, issue worthless check to the Odorless Dry Cleaners,

drawn on the First National Bank of Harper, Kansas, paid to order of the Odorless Dry Cleaners of that city, the amount of $12.60, and endorsed by me as A. J. Messenger, pay to the driver of the Or-dless Dry Cleaners truck, paying account of $6.50, and receiving remainder in cash. I did willfully and intentionally defraud the firm and absconded before payment of check.

Affiant further swears not.

C. Scudder, Affiant.

Sworn to and subscribed before me, this 1st day of March, 1935. R. D. Payne, Notary Public. My commission expires Apr. 18, A. D. 1937. (Seal.)

[fol. 90] AFFIDAVIT OF FRANK BOAZ

STATE OF KANSAS,
County of Leavenworth, ss:

I, Frank Boaz, being of lawful age, after being duly sworn, depose and aver that on or about the 14th day of June, 1933, C. H. Cochran asked me to offer correction to errors, if any, in his appeal documents. After he had finished reading the papers he stated that he was going to file them and went to the Deputy's office. Upon his return he informed me that his papers had been confiscated by the Deputy Warden.

About a year later C. H. Cochran complained again that he had been restrained from filing his appeal papers.

The affiant swears no further.

Frank Boaz, Affiant.

Subscribed and sworn to before me this 9th day of Sept., A. D. 1940. R. D. Payne, Notary Public. My commission expires April 18, 1941. (Seal.)

AFFIDAVIT OF SUSIE E. HARPER

STATE OF MISSOURI,
County of Lawrence, ss:

I, Susie E. Harper, being duly sworn, depose and state that on the 9th day of June, 1933, I visited C. H. Cochran

at the Kansas Prison, and after he had turned over his appeal documents to a lady there, I knew to be his mother, I saw the Deputy Warden come from the office and demand the papers, refused to return them and ordered the aged lady from the prison and I heard him tell C. H. Cochran that he could not now nor ever file his papers, then told an officer to punish him. I have not visited him since as the treatment of visitors did not appear Civil. I have known C. H. Cochran for 30 years.

(Signed) Susie E. Harper, Affiant.

Subscribed and sworn to before me this 18th day of October, 1934. (Signed) Byron E. Taylor, Notary Public. My commission expires Dec. 7, 1937. (Seal.)

I, C. H. Cochran, after being duly sworn, depose and say that the foregoing affidavits are true and copies of the affidavits that the State Officials have impounded and extracted from my petition. That was filed in the State Supreme Court of Kansas at Topeka, Kansas.

C. H. Cochran, Affiant.

[fol. 91] (Copy)

Spring Term of Court: 2nd Tuesday in May.
Fall Term: 1st Tuesday in December.
District Judge-: Hon. Graham M. Torrance, Bemidji, Minn.; Hon. Alfred L. Thwing, Grand Rapids, Minn.; Hon. D. Harry Fullerton, Brainerd, Minn.

Office of Clerk of District Court, Fifteenth Judicial District

Paul Huff, Clerk,

Aitkin, Minnesota

May 23, 1941.

Mr. C. H. Cochran, Box 2, Lansing, Kansas.

Dear Sir:

We are in receipt of your letter of May 21.

I have looked this record up, and find that Charles H. Smith, also known as Charles H. Cochran, was sent to the State Prison at Stillwater, Minnesota on or about the

8th day of October, 1917, for Burglary in the 3rd degree. In the direct testimony before the Court, he gave his birthdate as December 12, 1895. This was on or about October 8, 1917. This would make him about 21 or 22 years old at that time. The Judge asked him further if that was correct, and he said it was correct. By this testimony before the Judge of District Court, he was not under 16 years of age when he was sent to the State Prison.

I hope this clears up the matter for you, and any further information requested will be immediately answered.

Yours truly, (Signed) Paul Huff, Clerk of District Court.

[fol. 92] (Copy)

Office of O. M. Wheat, County Attorney,

Barber County, Medicine Lodge, Kansas

June 23, 1941.

Mr. Charles H. Cochran, Box 2, Lansing, Kansas.

DEAR SIR:

We have your letter of June 17 making inquiry as to whether this office has a warrant or information against you.

We have not checked any back records, but so far as my personal knowledge goes, there is nothing in the office against you.

We have checked with the office of Clerk of the District Court and with the Sheriff and neither office appears to have anything against you.

It would be possible that something was issued a number of years ago out of the Justice of Peace Court in this county, and if so, we have no present knowledge of the matter.

We have checked the warrant record on the County Attorney Fee Book back to January 12, 1931, and nothing appears against you.

I am,

Very truly yours, (Signed) O. M. Wheat.

OMW:HT.

In Re: Introduction statement of Sumner County Attorney John C. Potusie to Kirk Prather, Warden K. S. P.

[fol. 93] Oxford, Kansas,
May 21, 1941.

Mr. C. H. Cochran:

As to your questions I do not remember as to the jury mixing with the witnesses there was nothing to hinder and I don't think crime deserves the punishment.

(Signed) Burt Devore, Oxford, Kansas.

This letter is from one of the jurors of case, the State vs. Cochran, on the 15th day of May, 1933.

(Copy)

[fol. 94]

Court Officers: Clark A. Wallace, Judge; Max D. Hall, County Attorney; Jay B. Pearl, Clerk.

Court Meets: Second Monday in January. Second Monday in April. Second Monday in June. Second Monday in October.

Howard Carrithers, Sheriff of Harper County

Hugh Willet, Undersheriff

Office Phone 387; Residence 166
Anthony, Kansas

May 19th, 1941.

Mr. C. H. Cochran, Lansing, Kansas.

Dear Sir:

In answer to your letter of the 14th, will say that you were arrested Jan. 9th, 1933 for forgery, and was discharged 4-14-33 by Judge May, and as far as we know that is all there has been recorded here.

(Signed) Howard Carrithers, Sheriff. (Signed by) Hugh Willett, Undersheriff.

In Re:

Introduction statement of Sumner County Attorney John C. Potusie to Kirk Prather, Warden, K. S. P.

[fol. 95] IN SUPREME COURT OF KANSAS

No. 35,156

In Re: C. H. COCHRAN for a Writ of Habeas Corpus, Appellant,

v.

M. F. AMRINE, Warden of the Kansas State Penitentiary, Appellee

ORDER DENYING MOTION FOR REHEARING, ETC.—July 3, 1941

Now comes on for consideration the motion of the appellant for a rehearing; a motion to subpoena witnesses and a motion for an order staying the execution of the judgment of this court herein, and thereupon, after due consideration by the court; it is ordered that each of said motions be denied.

By the Court.

[fol. 96] Clerk's Certificate to foregoing transcript omitted in printing.

[fol. 97] SUPREME COURT OF THE UNITED STATES

ORDER ALLOWING CERTIORARI—Filed October 13, 1941

The petition herein for a writ of certiorari to the Supreme Court of the State of Kansas is granted.

And it is further ordered that the duly certified copy of the transcript of the proceedings below which accompanied the petition shall be treated as though filed in response to such writ.

[fol. 98] SUPREME COURT OF THE UNITED STATES

ORDER GRANTING MOTION FOR LEAVE TO PROCEED IN FORMA PAUPERIS—October 13, 1941

On Consideration of the motion for leave to proceed further herein in forma pauperis,

It Is Ordered by this Court that the said motion be, and the same is hereby granted.

Endorsed on Cover: In forma pauperis. Enter C. H. Cochran, pro se. File No. 45838. Kansas, Supreme Court. Term No. 510. C. H. Cochran, Petitioner, vs. The State of Kansas and Milton F. Amrine, Warden, Kansas State Penitentiary. Petition for a writ of certiorari and exhibit thereto. Filed August 13, 1941. Term No. 510, O. T. 1941.